

Criminal
Investigative
Policy &
Oversight



Evaluation of the Defense Protective Service

Report Number 9950006F

May 14, 1999

**Office of the Inspector General
Department of Defense**

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This report was prepared by the Oversight Directorate, Office of the Deputy Assistant Inspector General for Criminal Investigative Policy and Oversight, Office of the Inspector General, Department of Defense. If you have questions on this evaluation or want additional copies of the report, contact Dr. Charles McDowell, Program Director, at (703) 604-8769 (DSN 664-8769) or Mr. Jack Montgomery, Project Manager, at (703) 604-8703 (DSN 664-8703)

Acronyms Used in This Report

ADO	Administrative Duty Officer
AUSA	Assistant United States Attorney
CALEA	Commission on Accreditation for Law Enforcement Agencies
C.F.R.	Code of Federal Regulations
CIS	Criminal Investigative Section
DCIO	Defense Criminal Investigative Organization
DPS	Defense Protective Service
DOJ	Department of Justice
EST	Emergency Services Team
FBI	Federal Bureau of Investigation
FLETC	Federal Law Enforcement Training Center
FPS	Federal Protective Service
FTO	Field Training Officer
GO	General Order
GSA	General Services Administration
HRT	Hostage Rescue Team
IMPAC	International Merchant Purchase Card
LEAP	Law Enforcement Availability Pay
MCIO	Military Criminal Investigative Organization
MPO	Master Patrol Officer
OPM	Office of Personnel Management
SAUSA	Special Assistant United States Attorney
SECDEF	Secretary of Defense
SWAT	Special Weapons and Tactics
U.S.C.	United States Code
WHS	Washington Headquarters Services



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

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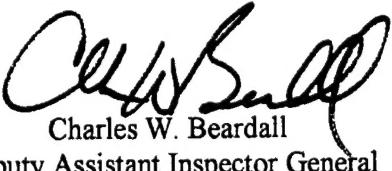
MEMORANDUM FOR DIRECTOR, ADMINISTRATION AND MANAGEMENT
GENERAL COUNSEL, DEPARTMENT OF DEFENSE

SUBJECT: Final Report on the Evaluation of the Defense Protective Service
(Report No. 9950006F)

This report is provided for your review and comment. Your comments on the draft report were considered in preparing the final report and are included in the final report as Appendix F. Changes to the draft report based on your comments are discussed in the final report.

We request your comments on the final report not later than July 30, 1999. We also request your prompt actions on our recommendations. Send your comments to the Office of the Deputy Assistant Inspector General for Criminal Investigative Policy and Oversight, Room 725, 400 Army Navy Drive, Arlington, Virginia 22202-2884. Should you have questions, please contact Mr. Jack Montgomery at 703-604-8703.

We appreciate the courtesies extended to our evaluation staff throughout this project. The evaluation team members are listed inside the back cover. See Appendix G for the report distribution.


Charles W. Beardall
Deputy Assistant Inspector General
Criminal Investigative Policy and Oversight

EVALUATION OF THE DEFENSE PROTECTIVE SERVICE

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- 1. DIRECTOR, ADMINISTRATION AND MANAGEMENT**
- 2. GENERAL COUNSEL, DEPARTMENT OF DEFENSE**

APPENDIX G - REPORT DISTRIBUTION

EVALUATION OF THE DEFENSE PROTECTIVE SERVICE EXECUTIVE SUMMARY

Introduction. Following a request by the Chairman, Subcommittee on Military Readiness, Committee on National Security, U.S. House of Representatives, we conducted an evaluation of the Defense Protective Service (DPS). Our overall objective was to assess DPS' effectiveness and efficiency in accomplishing its law enforcement mission, including whether the law enforcement mission was well defined, and whether DPS' written policies, operating procedures, and training requirements were adequate. We also assessed perceived DPS personnel and training problems cited by the Chairman, specifically a lack of continuing training for DPS officers after graduation from the basic training academy; shortages of personnel causing significant overtime requirements; the use of DPS officers on overtime at non-Pentagon locations; and generally low employee morale. We announced our evaluation on June 2, 1997, and conducted the fieldwork during the period July 15, 1997 through March 6, 1998. On December 18, 1998, we issued this report in draft form for management comment. We specifically requested comments from the Director, Administration and Management, and from the General Counsel, Department of Defense.

Management Comments. We received comments from the Director, Administration and Management, on March 1, 1999, and from the General Counsel, Department of Defense, on April 12, 1999. The General Counsel concurred with all of our recommendations and advised that they provided an improved framework for the continued development of DPS management, training and operations. With the exception of two recommendations and a portion of a third recommendation, the Director, Administration and Management, also concurred. The Director did not agree with our recommendation to reclassify as GS-085 Security Guards those GS-083 Police Officers used to staff fixed posts on a nonrotating basis. For the reasons discussed in the final report (see Pages 38-39), we ask the Director to reconsider this nonconcurrence. The Director also disagreed with the portion of one recommendation that concerned establishing a DPS Board of Disciplinary Review to ensure equitable, timely adjudication of employee disciplinary matters. For the reasons discussed in the final report (see Pages 40-41), we accept the Director's nonconcurrence and have deleted this recommendation from the final report. Finally, the Director disagreed with our recommendation to have a standards of conduct office review the use of the DPS Color Guard at a church service in Towson, Maryland, on April 3, 1997. Since the Director personally made the determinations that our recommendation intended (see Page 41), we accept the Director's position and have deleted this recommendation from the final report. The management comments are reproduced as Appendix F to the final report.

Background. Effective October 1, 1987, the Administrator, General Services Administration (GSA) delegated authority for protecting the Pentagon Reservation to the

Department of Defense.¹ To carry out the new mission, DoD established DPS, a new organization within the Washington Headquarters Service (WHS). The Chief, DPS, currently manages DPS under delegations of authority from the Secretary of Defense down the chain-of-command through the Director, WHS, and the Director, Real Estate and Facilities. At the time of our fieldwork, DPS employed 298 people, including 234 police officers (GS-083), 10 security guards (GS-085), 4 criminal investigators (GS-1811); 33 security services personnel;² and 17 others (mostly administrative specialists).³

Review Results. In many respects, DPS has performed well in identifying its operational needs, adopting policies to meet those needs, and performing its overall mission. However, we identified numerous operational and management problems, many of which arise from questions in the key areas of roles, responsibilities, and authority. We also identified significant problems in the personnel and administration areas. Specifically, we found that:

- DPS has not clearly defined or articulated the specific law enforcement powers and authorities under which its officers perform duties on DoD and non-DoD properties. DPS also has not sufficiently outlined those law enforcement actions that its officers may take in the face of overlapping authorities with other Federal, state, and local law enforcement organizations. Further, DPS has not entered into operating agreements with other key law enforcement organizations establishing which law enforcement organization has primary responsibility for addressing specific crimes or crime contingencies. DPS officers, therefore, continue to risk exceeding their authority and subjecting both the Government and themselves to unnecessary liability.
- DPS has at least 30 police officers routinely assigned to fixed posts performing security guard functions. These positions meet the Office of Personnel Management classification standards for GS-085 Security Guards, rather than GS-083 Police Officers, and should be reclassified. Further, all DPS fixed posts could possibly be staffed with security guards.
- DPS requires its officers assigned to the Emergency Services Team (EST) to successfully complete strenuous physical fitness testing each quarter. An EST member who does not satisfactorily complete a quarterly physical fitness test is not allowed to remain an EST member. Similarly, to become a Master Patrol Officer, a DPS police officer must successfully complete the same physical fitness testing given to EST members. Once hired for or promoted into the position, however, a Master Patrol Officer is not required to meet a continuing physical fitness standard to remain in the position. Other DPS police officers, including Field Training Officers, are not subject to physical

¹ Subsequent legislation made the Secretary of Defense directly responsible for protecting the Pentagon Reservation, as well as all other DoD facilities in the National Capital Region.

² These employees fall under the Deputy Chief for Security Services and were not included in this evaluation (see Footnote 5).

³ In FY 1997, DPS was authorized to hire additional staff. Between September 5, 1997, and October 1, 1998, the number of DPS employees increased from 291 to 329. The number of police officers increased from 230 to 264, or about 15 percent.

fitness testing once they successfully complete basic training at the Federal Law Enforcement Training Center. We did not find any justification for DPS to use different physical fitness standards for Master Patrol Officers, Field Training Officers, and non-specialized police officers.

- DPS does not always allocate overtime to its employees in accordance with its stated policy.

- DPS' participation in a religious event held at Towson, Maryland, during April 3-5, 1997, appears to have been an unusual, isolated occurrence, but was contrary to requirements. Contrary to requirements in DoD Instruction 5410.19, DPS incurred costs for 50 overtime hours, for using a DPS van and police cruiser to complete round trips to Towson, and for using a DPS van to complete a round trip to Laurel, Maryland, the following week to retrieve DPS equipment. Further, although no personal gain or benefit can be identified as a result of DPS' participation in the Towson religious event, the Deputy Chief, DPS, acted contrary to 5 C.F.R. §2635.702 in using his official title to request a Government service for the benefit of his church.

- An employee survey that we conducted identified significant employee dissatisfaction with DPS management, pay, and the retirement program. The survey also identified divisions between supervisors and police officers, and between those who work primarily as police officers and those who work primarily as security guards. The survey also indicated racial and gender divisions and generally low employee morale overall.

- DPS does not comply adequately with the policies that govern its firearms program and has not established specific policy related to the specialized weapons utilized by its Emergency Services Team. Contrary to its own policies, DPS does not maintain a master inventory for weapons and cannot account for some of its weapons. Due to the manner in which DPS acquired and maintained its weapons, we could not determine the full extent to which DPS weapons may be missing, lost, or stolen.

- DPS does not have a suspense system and does not monitor its firearms qualification program to ensure that its officers meet the semiannual firearm qualification requirement. Further, we did not find any evidence that DPS officers were precluded from carrying firearms after they failed to requalify.

- DPS' general order that governs its evidence program focuses exclusively on patrol officers, requiring them to surrender evidence to a temporary storage container maintained by the Administrative Duty Officer. The general order does not address other DPS personnel, including criminal investigators. The general order also does not address security, access, or other standards for the evidence room; nor does it delineate procedures for controlling chain-of-custody or releasing evidence for prosecution, laboratory analysis, or final disposal. Further, the general order does not cover inspections, audits, or physical inventories to help control and protect evidence, and there is no record that DPS evidence has been subjected to physical inventory or audit.⁴

⁴ As discussed in Chapter D under heading 2. Collecting, Protecting, and Preserving Evidence, DoD policy and/or applicable standards require quarterly inspections, annual audits conducted by a supervisor not

While DPS performed evidence inspections in both 1994 and 1996, and identified numerous deficiencies in its procedures and standards for evidence, DPS management did not take corrective actions based upon the inspection findings.

- DPS management has not subjected the Criminal Investigations Section to strong management oversight to ensure that it produces meaningful, measurable results. Further, relevant information from criminal investigative reports is not routinely shared with appropriate DoD managers for use in formulating new or revised policy or for taking administrative or personnel actions. Overall, DPS criminal investigations have contributed only minimally to DPS' overall law enforcement efforts.
- DPS has a \$1,000 confidential fund and has adopted policy for maintaining and using the fund. DPS, however, has never used the fund and does not comply with its policy requirements governing the fund.

Summary of Recommendations. Due to significant DPS officer misunderstandings of their authority, we recommended that DPS revise and reissue General Order 1000.2, "Authority, Police Powers, and Jurisdiction," June 24, 1991, in plain language, delineating DPS officer authority and police powers, by location or property. We also recommended that DPS:

- execute operating agreements with other law enforcement organizations to resolve role, responsibility, and authority issues, especially in connection with potential terrorist or other significant contingencies, as well as in connection with day-to-day criminal investigative and law enforcement operations;
- complete training and take other actions as necessary to ensure that DPS officers fully understand their authority and powers;
- implement and ensure compliance with DoD's internal management control program and requirements;
- adopt and implement a strategic goals program;
- reclassify as GS-085 Security Guards those GS-083 Police Officer positions currently used to staff fixed posts on a nonrotating assignment basis and determine whether all DPS fixed posts should be staffed with GS-085 Security Guards;
- determine whether DPS police officers are properly graded based on actual duties and responsibilities for their positions;
- standardize DPS physical fitness requirements for non-EST police officers;
- ensure that supervisors who make overtime assignments do so equitably;

routinely or directly connected to the property control function, and an inventory whenever the person responsible for the function changes.

- revise current policy for internal affairs investigations to require direct internal affairs reporting to the Chief, DPS, and an alternative reporting mechanism, such as to the Director, Real Estate and Facilities, WHS, when internal affairs allegations involve the Chief, DPS;
 - revise General Order 1300.10 to: identify specifically the types of community relations events that the honor guard may support; require these events to be selected in accordance with Federal law and DoD policy; set forth specific criteria for selecting and training team members, approving their participation in community events, and funding their participation; and include a follow-up reporting process that documents participation, costs, and the actual or anticipated Government benefits derived from the participation;
 - expand the agency's general orders to include policies and procedures for all DPS weapons, including specialized weapons not specifically assigned to individual officers, and specifically addressing the carrying of personal weapons on and off DoD properties in the National Capital Region;
 - expand the agency's general orders to include policies and procedures for handling Grand Jury information, including specific procedures for receiving, processing, safeguarding and disposing of such information in accordance with the protection accorded Grand Jury information under Rule 6(e) of the Federal Rules of Criminal Procedure;
 - standardize the accountability process for DPS weapons to conform with DoD policy, and complete an aggressive, thorough investigation to determine the total weapons for which DPS is accountable and the circumstances surrounding each missing or otherwise unaccounted weapon;
 - establish management processes and monitoring systems as necessary to prevent lapses in DPS officer firearm qualification testing and preclude firearms access to those officers who do not qualify or who are otherwise barred from carrying a weapon;
 - adopt and implement an evidence program prescribing needed standards and procedures, and require an immediate physical inventory of evidence in DPS' possession;
 - align actual evidence custodian duties and responsibilities with the position designated as having those duties and responsibilities;
 - issue policy for DPS criminal investigators that includes (1) criteria for initiating, continuing and suspending investigations, (2) sharing relevant information from investigative reports with appropriate DoD managers responsible for the personnel or property involved in DPS criminal investigations, and (3) procedures for identifying, collecting and reporting investigative case results;
 - identify a reasonable and appropriate caseload for a DPS criminal investigator and then adjust staffing for the Criminal Investigations Section accordingly;

Executive Summary

- either eliminate the current confidential fund and disburse the cash holdings, or issue guidance on properly using confidential funds and maintaining the account;
- implement a general order specifying procedures for scheduling and posting duty assignments, including rotation requirements;
- identify DPS customer and community needs through surveys and community relations programs;
- adopt an agency-wide goal of satisfying customer and community needs, and amend DPS general orders to incorporate and emphasize this new goal;
- formalize crime statistics development and reporting, based on collecting and analyzing DPS crime statistics and relevant statistics from other law enforcement organizations in the National Capital Region;
- establish formal guidelines for the DPS Shooting Board, including whether the Shooting Board has decision making or advisory authority, when it must be convened, criteria for its membership, and the coordination required with individual DPS operating elements, such as Internal Affairs;
- modify current general orders to include specific target times for completing internal affairs and related administrative actions and requiring documented reasons for delays;
- assign additional personnel to the Inspections Section and ensure they are trained in implementing inspections policy and adhering to policy requirements during inspections;
- ensure that senior managers give the inspections program higher priority and closer supervision, and act on inspection findings;
- consider relocating the Inspections Section to the Pentagon where the staff would be closer to most DPS personnel and, through better staff and management interaction, could better identify inspection needs; and
- amend General Order 1100.22, "Line Inspection," November 10, 1992, establishing clear standards and procedures for file maintenance and retention, and management reporting.

EVALUATION OF THE DEFENSE PROTECTIVE SERVICE

PART I - INTRODUCTION

INTRODUCTION

On April 17, 1997, the Chairman, Subcommittee on Military Readiness, Committee on National Security, U.S. House of Representatives, wrote to the Inspector General, Department of Defense (IG, DoD). The Chairman described several allegations of personnel and training problems at the DPS that had been brought to his attention and requested an IG, DoD, review.⁵ The Chairman asked the IG, DoD, to evaluate the following specific problems:

- a lack of continuing training for officers after graduation from the basic training academy;
- personnel shortages, which cause significant overtime requirements;
- DPS officers being used on an overtime basis at non-Pentagon locations, such as churches; and
- generally low employee morale within DPS.

This report addresses each of these issues.

BACKGROUND

Pursuant to Title 40, United States Code, Section 318 (40 U.S.C. §318), the General Services Administration (GSA) was granted authority to:

“... appoint uniformed guards ... as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator... Special policemen appointed under this section shall have the same powers as sheriffs and constables upon property ... to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator of General Services or such duly authorized officials of the General Services Administration for the property

⁵ The Chairman also raised several concerns about physical security at the Pentagon, which are not addressed in this report. On November 13, 1997, the Defense Special Weapons Agency, which assists the Chairman, Joint Chiefs of Staff, in performing vulnerability assessments of DoD installations worldwide, issued a classified report on its vulnerability assessment at the Pentagon, “Joint Staff Integrated Vulnerability Assessment (JSIVA) The Pentagon 10-24 October, 1997.” This assessment focused on elements that directly related to combating terrorism, including terrorist act prevention and limiting mass casualties should deterrence fail. It was conducted by a team that included a structural engineer, an infrastructure engineer, a terrorist options specialist, and five physical security specialists.

under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process."

In 1987, GSA delegated this authority, as it applied to the Pentagon, to the Secretary of Defense.⁶ In connection with this delegation of authority, GSA also transferred approximately 200 Federal police officers and their positions to DoD. Following these actions, DoD created the DPS effective October 1, 1987, to carry out the law enforcement mission for the Pentagon Reservation.

The National Defense Authorization Act for Fiscal Year 1991 transferred jurisdiction, custody, control over and responsibility for the Pentagon from GSA to DoD. The statute, 10 U.S.C. §2674, "Operation and Control of the Pentagon Reservation," provided:

"... Jurisdiction, custody, and control over, and responsibility for, the operation, maintenance, and management of the Pentagon Reservation is transferred to the Secretary of Defense..."

"... The Secretary may appoint military or civilian personnel or contract personnel to perform law enforcement and security functions for property occupied by, or under the jurisdiction, custody, and control of the Department of Defense, and located at the Pentagon Reservation. Such individuals --

(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status; and

(2) shall have the same powers (other than the service of civil process) as sheriffs and constables upon the ... [Pentagon Reservation] to enforce the laws enacted for the protection of persons and property, to prevent breaches of the peace and suppress affrays or unlawful assemblies, and to enforce any rules or regulations with respect to such property prescribed by duly authorized officials."

"... The Secretary may prescribe such rules and regulations as the Secretary considers appropriate to ensure the safe, efficient, and secure operation of the Pentagon Reservation, including rules and regulations necessary to govern the operation and parking of motor vehicles on the Pentagon Reservation..."

The statute defined the Pentagon Reservation as:

"... that area of land (consisting of approximately 280 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for parking of vehicles."

In 1996, the Congress amended 10 U.S.C. §2674 to extend the Secretary of Defense's authority. The amendment authorized the Secretary to "... perform law enforcement and security functions for property occupied by, or under the jurisdiction,

⁶ This delegation did not create a police department, at least not in the conventional sense. The emphasis was on "uniformed guards" who could simultaneously serve as "special policemen without additional compensation for duty in connection with the policing of all buildings and areas..."

custody, and control of the Department of Defense, and located in the National Capital Region..." The statute defined the term "National Capital Region" as:

"... the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince George Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City."

Pursuant to 10 U.S.C. §113(d), the Secretary of Defense delegated this authority to the Director, WHS, who continued the delegations through the chain-of-command to the Chief, DPS. Specifics relating to the actual organization were left to DPS management.

According to its mission statement, DPS develops and implements programs dealing with property under WHS charge and control.⁷ These programs promote the preservation of public order, the prevention of crime, the timely response to life-threatening events, the investigation of criminal activity, the maintenance of security, and the performance of other public assistance services. Strategies for accomplishing this mission include employing trained police officers, criminal investigators, security aides, and contract guards; using electronic security devices; providing occupant security; and performing crime prevention assessments on buildings and office space. On request, DPS also provides security services to DoD components on a reimbursable basis (DPS provides some of these services directly and contracts for others). DPS currently uses contractors to meet security needs at 21 DoD-leased or owned buildings off the Pentagon Reservation and is responsible for overseeing contract services at these locations. DPS is also responsible for issuing parking permits and enforcing parking regulations on the Pentagon Reservation.

DPS functions are organized according to whether they involve law enforcement or security. DPS has a Deputy Chief for Law Enforcement and a Deputy Chief for Security Services, both of whom report to the Chief. (Appendix A shows the current DPS organizational structure.) At the time of our fieldwork, DPS employed 234 police officers, 10 security guards, 4 criminal investigators, and 17 people in various other job classifications. DPS criminal investigators (but not its police officers) participate in the 20 year retirement program and receive the Law Enforcement Availability Pay (LEAP) available to Federal law enforcement officers in the GS-1811 job series. The DPS budget for FY 1997 was approximately \$41 million, including \$10.4 million in reimbursements from DoD elements where DPS maintains fixed security posts and approximately

⁷ WHS provides administrative and operational support to specified DoD activities in the National Capital Region. The Director, Administration and Management, Office of the Secretary of Defense, has collateral responsibility as Director, WHS, and in that capacity administers (among other things) DoD occupied and GSA controlled administrative space in the NCR and DoD common support facilities. This includes office space, concessions, layout design, law enforcement and physical security, and other related building administration functions.

\$7.9 million in reimbursements from DoD elements where DPS arranges contract guard services.

Prior Review

A previous IG, DoD, Inspection Report, "Washington Headquarters Services," January 23, 1990, described various operational and organizational problems that either resulted from or followed GSA's delegation of authority to DoD. The DPS operational problems that were identified included weakened building security, excessive overtime, discipline issues, and inadequate personnel management and training. Organizational problems included fragmentation, duplication of effort, and overlap in WHS directorates or operations, including security. These problems were generally attributed to inadequate planning and preparation for the approximately tenfold increase in size resulting from the assumption of responsibilities formerly administered by GSA. The 1990 inspection found specific problems with DPS overtime, which were described as follows:

"... delays in hiring caused extensive vacancies in the DPS, which resulted in excessive overtime, improper use of personnel, and ... [DPS not performing] the assigned mission. For example, the DPS was unable to perform some administrative functions such as writing ... general orders and standard operating procedures..."

"... DPS was using over 5,000 hours of overtime in a pay-period, with some employees working over 80 hours of overtime per pay period. Because of the large overtime requirement, the DPS was not requesting overtime in the prescribed manner, i.e., personnel listed by name and position. Furthermore, employees were working overtime and taking annual leave in the same pay-period, a practice not normally allowed under OSD Administrative Instruction 28, Overtime, Administrative Workweek, and Prescribed Hours of Duty of Civilian Employees. However, with the severe personnel shortages and continuing mission requirements, managers could not exclude employees who took annual leave from working overtime for the entire pay period."

The IG, DoD, recommended that DPS improve its controls on overtime approval and usage. WHS concurred and indicated that DPS had formulated new procedures for projecting and controlling its overtime.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our overall objective was to assess DPS' effectiveness and efficiency in accomplishing its law enforcement mission. This included assessing whether the DPS mission was well defined and if its policies, procedures, and training requirements were adequate. It also included assessing the specific personnel and training problems described in the letter from the Chairman of the Subcommittee on Military Readiness, cited above. Our evaluation did not include assessing DPS' security services operations (See Footnote 5).

DoD general law enforcement organizations typically operate at the local level under the direction and control of individuals who report to base or installation

commanders. While there is considerable DoD-wide policy governing personnel and administrative matters in these organizations, policies that guide specific law enforcement operations and management functions are generally delegated to the Service Secretaries. To assess DPS' effectiveness and efficiency, therefore, it was necessary for us to identify appropriate standards for comparison. The most thorough source we identified for this purpose was the "*STANDARDS FOR LAW ENFORCEMENT AGENCIES: The Standards Manual of the Law Enforcement Agency Accreditation Program*," third edition, (April 1994). The Commission on Accreditation for Law Enforcement Agencies (CALEA) uses this manual in assessing whether an applicant law enforcement agency meets the standards for accreditation.⁸ Generally, the standards (hereafter referred to as CALEA standards) provide a basis for determining whether a law enforcement agency has written direction (policy) to cover specific operational and management needs. The current manual has 436 standards organized into 40 chapters or topic areas, which CALEA believes reflect the best professional practices for law enforcement agencies. Not all of these standards apply to every law enforcement agency. The applicability of a particular standard depends on a law enforcement agency's size and other considerations. For example, CALEA standards include several that address instructor qualifications and training for a police academy. These training standards do not apply to DPS, which uses the Department of Treasury Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, to meet its basic law enforcement training needs.

We identified 326 standards that appeared applicable to DPS and we categorized them under the following topical areas:

- roles, responsibilities, and relationships;
- organization and management;

⁸ In 1979, four major law enforcement executive membership associations (the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, and the Police Executive Research Forum), joined forces to establish a body of standards and develop an accreditation process that provides law enforcement agencies an opportunity to demonstrate voluntarily that they meet an established set of professional standards. CALEA and its standards manual resulted from this joint effort. The four associations continue as primary members of the Commission on Accreditation. The group's efforts have led many state, county, city, and other police departments, as well as sheriffs and constables, to seek CALEA accreditation and comply with the CALEA standards.

- personnel;
- operations; and
- operations support.

We used these standards, together with applicable DoD-wide policy, as our baseline in evaluating DPS and assessing its effectiveness and efficiency.⁹ Our comparison of these standards to DPS policy coverage is shown in Appendix B.

⁹ Our use of these standards should not be construed to mean that we believe DPS operations are like or substantially like a state, local, or municipal police department operation. As discussed later in this report, DPS' roles, responsibilities and authority require further definition, which could impact significantly the nature and extent of its operations and the applicability of individual standards.

EVALUATION OF THE DEFENSE PROTECTIVE SERVICE

PART II – RESULTS OF EVALUATION AND RECOMMENDATIONS

A. ROLES, RESPONSIBILITIES, AND RELATIONSHIPS

DPS has not fully and clearly defined, or articulated to its officers, the specific law enforcement (police) powers that exist for DPS officers when performing duties on particular DoD properties and when not on a DoD property. Furthermore, other Federal, state, and local law enforcement organizations have and may exercise law enforcement authority on DoD and non-DoD properties where DPS officers operate, and DPS has not sufficiently identified those law enforcement actions that DPS officers should or may take in the face of these overlapping authorities. DPS has also not entered into operating agreements with key law enforcement organizations establishing which law enforcement organization has primary responsibility for addressing specific crimes or crime contingencies. In the absence of specific and adequately communicated guidance, DPS officers' roles, responsibilities, and relationships continue to be susceptible to misunderstanding, misinterpretation, and misapplication, and DPS officers continue to risk exceeding their authority and subjecting both the Government and themselves to unnecessary liability.

1. Authority

10 U.S.C. §2674 transferred jurisdiction, custody and control over, and responsibility for the operation, maintenance and management of the Pentagon Reservation to the Secretary of Defense. The statute authorized the Secretary of Defense to appoint military, civilian, or contract personnel "... to perform law enforcement and security functions for property occupied by, or under the jurisdiction, custody, and control of the Department of Defense, and located in the National Capital Region..." It also authorized the Secretary to "... prescribe such rules and regulations as the Secretary considers appropriate to ensure the safe, efficient, and secure operations of the Pentagon Reservation..."

DPS' authority, as derived from 10 U.S.C. §2674, is the same as "... sheriffs and constables upon ... property ... to enforce the laws enacted for the protection of persons and property, to prevent breaches of the peace and suppress affrays of unlawful assemblies, and to enforce any rules or regulations with respect to such property prescribed by duly authorized officials."¹⁰ The statute also includes authority to enforce rules and regulations, not limited to those rules and regulations the Secretary of Defense

¹⁰ The statutory authority specifically excludes "... service of civil process."

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was authorized to promulgate for the Pentagon Reservation. DPS' authority, therefore, extends to enforcing GSA rules and regulations as they apply to DoD facilities in the National Capital Region. DPS General Order 1000.2 provides some guidance on how these broad grants of authority should be applied, but more appears warranted.

DPS shares law enforcement authority with other law enforcement organizations, Federal, state, and local, depending on the location at which they are operating. For example, the Federal Bureau of Investigation (FBI) and the four Defense Criminal Investigative Organizations (DCIOs) have responsibility for investigating certain Federal crimes that occur on DoD property.¹¹ Despite the broad statutory language, DPS may not have exclusive criminal investigative authority. Other investigative agencies may have authority to investigate crimes committed in the Pentagon. While DPS may have specific law enforcement powers on DoD property in the National Capital Region, DPS may not have authority to investigate all crimes occurring on the DoD property. At a minimum, DPS may not be the law enforcement organization best suited to conduct an investigation. Further, DPS officers, during the exercise of their duties, might travel between DoD properties, or might be located at a property where DoD has only a property interest. In these situations, a state or local law enforcement organization has primary law enforcement authority.

On the whole, the law enforcement authority of DPS officers may vary from property to property where they conduct operations. DPS officers perform duties on the Pentagon Reservation, at DoD-owned and occupied properties in the National Capital Region, and at various GSA-leased and DoD-occupied facilities in the National Capital Region. DPS also operates at non-DoD properties based on specific Secretary of Defense direction. DPS, for example, has been tasked to provide security for SECDEF-hosted visiting dignitaries. DPS has also been tasked to travel with and provide security to special commissions, such as the Base Realignment and Closure Commission. Furthermore, as part of its SECDEF protection mission, DPS maintains electronic surveillance over, monitors, and shows police presence at the SECDEF's private residence in Washington, D.C.¹² Finally, DPS performs security assessments at DoD facilities to identify specific security needs, assists WHS in arranging contract guard services to meet those needs, and performs contractor oversight to ensure performance in accordance with contract requirements.

¹¹ The DCIOs are the U.S. Army Criminal Investigation Command (USACIDC), the Naval Criminal Investigative Service (NCIS), the Air Force Office of Special Investigations (AFOSI), and the Defense Criminal Investigative Service (DCIS). The DCIS is the criminal investigative arm of the IG, DoD. Excluding DCIS, these organizations are generally referred to as the Military Criminal Investigative Organizations (MCIO).

¹² Outside the Pentagon, USACIDC performs protective services for the Secretary and Deputy Secretary of Defense, the Chairman and Vice Chairman, Joint Chiefs of Staff, and their invited guests. According to USACIDC, DPS has protection responsibility inside the Pentagon and likely would be "first responder" to an incident at the Secretary's private residence. We note that the MCIOs face the same authority issue as DPS in performing protective service operations.

DPS General Order 1000.2, “Authority, Police Powers, and Jurisdiction,” June 24, 1991, defines various authorities and sets forth certain guidance for DPS police officers and investigators.¹³ The general order includes the following direction:

“AUTHORITY ON EXCLUSIVE OR CONCURRENT JURISDICTION: DPS officers and investigators may make an arrest, without warrant, when the following acts are committed on property under the exclusive or concurrent jurisdiction of WHS:

1. A felony committed in the officer’s presence;
2. To prevent a felony: when probable cause exists to believe a felony is about to take place and that the person arrested intended to commit the felony;
3. When there are reasonable grounds to believe a felony has been committed and the person to be arrested committed the felony;
4. A misdemeanor in violation of Federal and state law or Federal Rules and Regulations (C.F.R.) committed in the officer’s presence, within the officer’s view, provided the arrest is made immediately;
5. In the District of Columbia, officers may arrest a person for a misdemeanor not committed in his presence if the officer has probable cause to believe the following misdemeanors were committed:
 - a. assault
 - b. petty larceny (less than \$250)
 - c. recovering stolen goods
 - d. unlawful entry
 - e. attempted burglary
 - f. attempt grand larceny
 - g. attempt unauthorized use of a vehicle
6. In Virginia, an officer may arrest for a misdemeanor not committed in the officer’s presence involving shoplifting or assault and battery when such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense.

AUTHORITY WITHIN PROPRIETORIAL INTEREST: Officers and investigators may exercise police powers, except the power to serve civil process, to enforce the Rules and Regulations (41 C.F.R. 101-20.3) and those Federal laws (Title 18 USC) whose applicability is not limited to areas over which the United States has exclusive or concurrent jurisdiction (e.g. 18 USC 641 Theft of Government Property; 18 USC 111 (Assault on Federal Officer). Violations of these laws are deemed to be Federal crimes regardless of where they occur. The Assimilative Crimes Act may not be applied within proprietorial interest property.

¹³ This general order predates the 1996 amendment to 10 U.S.C. §2674 expanding the Secretary of Defense’s authority to DoD facilities in the National Capital Region. It refers to 40 U.S.C. §318; the Delegation of Authority from the Administrator, GSA; and 41 CFR 101-20.3, in providing guidance for DoD facilities other than the Pentagon Reservation. An updated General Order 1000.2 has been drafted, but has not been approved or published. We note that the draft refers to the Pentagon Reservation as being exclusive Federal jurisdiction, which has not been established.

Part II – Results of Evaluation and Recommendations

A. Roles, Responsibilities and Relationships

...
CITIZEN'S ARREST: Because of the nature of our jurisdiction, an officer may be confronted with a situation (outside DPS jurisdiction) when the officer only has citizen's arrest authority. In such a situation, that officer will have to make a personal choice based on the circumstances of the individual incident. The first option is to have the responsible agency handle the incident; however, this is not always possible. Each officer has the same rights and authority as any other citizen and may elect to exercise such authority. Being a DPS police officer or investigator does not grant any additional authority, thus an arrest must comply with the authority and legal requirements of a citizen's arrest within that jurisdiction."

As can be seen above, although the general order refers to "authority" and "police powers," it includes specific guidance only regarding when a DPS officer may make a warrantless arrest.¹⁴ The general order does not address:

- authority or police/security powers available to an officer conducting protective service functions;
- authority or police/security powers available to an officer who monitors and shows police presence at the Secretary of Defense's private residence; or
- authority or police/security powers available to an officer on DoD properties or facilities within the National Capital Region, but located in the State of Maryland.

In addition, the general order is written in terms that may not be easy to fully understand. We found that many DPS officers do not adequately understand their authority.

According to our employee survey (see Appendix C), 39.5 percent of DPS' officers did not understand their authority and 42.7 percent did not understand the different jurisdictions in which they operate.¹⁵ In addition, based on interviews and discussions during our evaluation, DPS officers had differing views on the scope of their authority. With respect to activities on the Pentagon Reservation, most DPS officers maintained that DPS had exclusive investigative authority at the Pentagon.¹⁶ For off-Pentagon locations, however, DPS officers cited varying authority and limitations on authority. Some advised that DPS' authority extended only to those buildings where DoD has leased office space. Others claimed that DPS officers, when on patrol, are authorized

¹⁴ Although DPS has additional general orders addressing individual police powers, it does not have specific policy or guidance identifying for its officers the specific "... sheriffs and constables ..." powers that the officers may use or apply overall, or at individual locations.

¹⁵ Some respondents to our employee survey advised that their supervisors imparted different authority guidance from day-to-day.

¹⁶ This assertion conflicts with the WHS General Counsel interpretation of 10 U.S.C. §2674, which does not stipulate or support such investigative exclusivity for DPS. The WHS General Counsel has participated in training DPS employees on their authority and jurisdiction, but apparently was unable to overcome individual officer beliefs.

to exercise police authority any time they observe violations of law, including traffic infractions on non-Federal property.

Similar differing views existed regarding DPS' Emergency Services Team activities. Some DPS officers advised that FBI's Hostage Rescue Team (HRT) would preempt DPS' Emergency Services Team at the Pentagon, and a local police agency Special Weapons and Tactics (SWAT) team would preempt DPS' Emergency Services Team at off-Pentagon locations. Other officers maintained that DPS' Emergency Services Team would be in charge during all Pentagon emergencies and off-Pentagon emergencies involving DoD leased sites.

Discussions with local civilian law enforcement agencies yielded very different views. One local police agency questioned DPS' authority to stop vehicle and pedestrian traffic in a state's jurisdiction in order to establish a police perimeter outside a GSA leased site. Another local police department advised that a DPS officer who stopped a civilian motor vehicle for a routine traffic stop not originating from Pentagon property would be subject to arrest for impersonating a local police officer. By contrast, some DPS officers asserted their "right" as Federal police officers to enforce the law whenever and wherever they observe law breaking, regardless of the nature of the offense.

As a result of continuing misunderstandings regarding authority, DPS officers risk exceeding their law enforcement authority. For example, we learned of several routine traffic stops that DPS officers conducted on private streets in Arlington and Fairfax Counties, Virginia. One involved a DPS officer stopping the relative of a DCIO Special Agent as she drove her automobile on an Arlington County, Virginia, street after exiting the Macy's Department Store parking lot in Pentagon City. Another involved a DPS officer stopping a motorist for speeding on Route 1 in Fairfax County.¹⁷ A DCIO Special Agent also told us about a DPS criminal investigator conducting searches at an Army civilian employee's private residence in Prince George County, Maryland, in connection with a criminal investigation that DPS did not have authority to conduct. Finally, incidents have occurred in which DPS police officers, who were first responders to murder or suicide crime scenes at locations where local law enforcement organizations had primary jurisdiction, initially barred other law enforcement officials from the crime scenes. One such incident involved Department of the Navy leased facilities in Arlington County, Virginia. In this incident, DPS initially barred both Arlington County Police Officers and NCIS Special Agents from the crime scene.

¹⁷ The DPS officer did not take any action against the motorist, who was an off-duty Fairfax County Police Officer. The DPS officer, however, was subsequently arrested by Fairfax County police for impersonating a police officer. A Fairfax County District Court judge, although dismissing the case, pointed out to the DPS officer, "... [I]et me make it plain and simple to you. You do not have the power to do this. If you see someone driving improperly, you call the police."

2. DoD Policy

The DoD has not issued sufficiently specific policy addressing DPS' law enforcement authority and functions. DPS officers do not fully understand what actions they may take (arrests, searches, use of force) and how the location in which they are operating may affect those actions. The following discussion makes it clear that DPS implementation of that policy requires review.

The Pentagon Reservation is comprised of Federal properties under Secretary of Defense control and direction. However, "... [t]he Department of Justice [DOJ] has primary responsibility for enforcement of federal laws in the United States District Courts ..." and the FBI may investigate cases that may also be investigated by DoD agencies.¹⁸ In 1984, DoD entered into a Memorandum of Understanding (MOU) with DOJ that established investigative relationships between the two Departments. The MOU provides for sharing information, referral of cases, notification of certain cases, and other interactive investigative efforts. On January 22, 1985, DoD issued Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," implementing the 1984 MOU. While the MOU and DoD Directive both predate the 1990 statute assigning the Pentagon law enforcement and security mission to the Secretary of Defense, and while they do not reference DPS directly, the MOU clearly established DoD-wide and DOJ-wide policy for criminal investigation and prosecution in matters involving DoD. In fact, according to the MOU:

"This Memorandum of Understanding (MOU) establishes policy for the Department of Justice and the Department of Defense with regard to the investigation and prosecution of criminal matters over which the two Departments have jurisdiction... This Memorandum applies to all components and personnel of the Department of Justice and the Department of Defense."

DPS' criminal investigative operations, therefore, are subject to DoD Directive 5525.7, which implemented this MOU. The 1990 statute does not affect implementation of the MOU.

On June 16, 1990, the IG, DoD, issued DoD Instruction 5505.2, "Criminal Investigations of Fraud Offenses," establishing policies, responsibilities, and procedures for determining the DoD criminal investigative organization responsible for investigating fraud offenses under both the United States Code and the Uniform Code of Military Justice (UCMJ).¹⁹ The Instruction applies to the various DoD components, including the Office of the Secretary of Defense (OSD), Defense Agencies, and DoD Field Activities. It specifically provides that the term "fraud" includes:

¹⁸ "Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," August 1984

¹⁹ On November 18, 1993, and June 9, 1995, the IG, DoD issued memoranda guidance that supercedes, in part, this Instruction. The memoranda guidance, while changing workload distribution among the DCIOs, does not impact this discussion.

“...theft and/or embezzlement from the government, bribery, gratuities, conflict of interest, and violations of antitrust laws, as well as fraud (e.g., false statements and false claims) in the following areas: pay and allowances, procurement, labor and material mischarging, defective pricing, product substitution, progress payment fraud, property disposal, commissary and/or subsistence, nonappropriated funds, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), foreign military sales, and personnel matters.”

The Instruction designates the Defense Criminal Investigative Service as the agency responsible for investigating all fraud allegations involving the Office of the Secretary of Defense, the Joint Staff, the Defense Agencies (except the Defense Logistics Agency), and any other fraud investigation that the IG, DoD deems appropriate. Similarly, the Instruction designates the MCIOs as the agencies responsible for conducting fraud investigations on behalf of their respective Military Departments. The Instruction requires the Secretaries of the Military Departments, OSD component heads, and heads of Defense Agencies to “[e]stablish procedures providing for the investigation of less significant fraud allegations when the DCIOs neither investigate the matter nor refer the allegations elsewhere for investigation.” This Instruction clearly gives the DCIOs investigative authority, both on the Pentagon Reservation and within the National Capital Region, for fraud offenses. Furthermore, fraud was specifically defined to include theft and other offenses of the types that DPS typically encounters.

The DPS Investigative Section, however, asserts that it has primary investigative authority within the Pentagon and believes that any DCIO investigative authority at the Pentagon is subordinate. DPS’ policy provides for notifying a DCIO only when a person subject to the UCMJ is under investigation. In all other DPS investigations, the Investigative Section decides whether and at what point to notify an interested DCIO. The DCIOs, on the other hand, do not agree that DPS has primary investigative authority at the Pentagon and freely conduct investigations there, oftentimes without discussing the crimes or investigations with DPS. This situation does not constitute a coordinated DoD approach to addressing criminal wrongdoing and has the potential to jeopardize both DoD criminal investigations and the resulting prosecutions.

3. Agreements with Other Law Enforcement Organizations.

Although DPS has MOUs with some law enforcement organizations, it does not have them with many key Federal and non-Federal agencies that also have law enforcement authority at DoD facilities in the National Capital Region. (Appendix D identifies the organizations with which DPS has MOUs.) For example, the FBI and the DCIOs are responsible for investigating Federal crimes on DoD property. In addition, at DoD facilities where the Government has only proprietary interest, the Commonwealth of Virginia, the State of Maryland, or the District of Columbia Metropolitan Police Department have primary law enforcement authority, depending on where the DoD property is located. Without operating agreements between the various law enforcement organizations, the coordination required to identify and establish interagency

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A. Roles, Responsibilities and Relationships

responsibilities and authorities for a contingency situation at the Pentagon or other DoD facility in the National Capital Region would have to occur during the opening phases of the contingency.²⁰ This situation would reduce focus on mission accomplishment and could seriously hamper both the law enforcement and security efforts needed to address the contingency.

DPS' Emergency Services Team trains and is equipped with special weapons and equipment to respond to terrorist and hostage incidents. DPS, however, has not yet encountered a situation in which it has had to deploy its Emergency Services Team operationally and does not have agreements establishing when or how it would yield control to the FBI or other law enforcement organization. Should such a situation occur, a successful resolution would depend on planned and fully coordinated efforts between DoD, FBI, and other involved agencies. Since DPS does not have an MOU, general order, or other policy addressing the planning and coordination needed for such a contingency, a terrorist or hostage incident might well result in confusion and conflict between the various agencies attempting to assume command and control.

This same situation is possible for the off-Pentagon locations, especially in the Arlington County, Virginia, area. Arlington County is host to most GSA-leased and DoD-occupied sites in the National Capital Region. Yet, DPS does not have an MOU with the Arlington County Police Department. A discussion with Arlington County police officials revealed a wide disparity between how they view DPS' role at off-Pentagon Arlington County sites and how DPS views its role at those sites. DPS also does not have MOUs with other key law enforcement agencies, including the FBI Washington Field Office; the Virginia and Maryland State Police Departments; the U.S. Park Police; or the Fairfax County Police Department.

Management Comments and Our Evaluation

The Director, Administration and Management, generally concurred with our findings and recommendations. The General Counsel, Department of Defense, fully concurred with our recommendations, advising that they provided an improved framework for the continued development of DPS management, training and operations. Specific management comments are addressed below in connection with the individual recommendations.

Recommendations

A1. The Chief, DPS, in coordination with the WHS General Counsel, revise DPS General Order 1000.2, "Authority, Police Powers, and Jurisdiction," June 24, 1991, to set

²⁰ As discussed later in this report, DPS has developed contingency plans to address a nuclear, biological, or chemical (NBC) attack at the Pentagon. DPS, however, does not have operating agreements with other law enforcement agencies to resolve jurisdiction and authority questions almost certain to arise at the outset of such an attack.

forth, in plain language, the specific police powers that DPS officers are authorized to exercise when:

- on duty at specific DoD properties and facilities in the National Capital Region, including the Pentagon Reservation;
- on duty, but not on a specific DoD property or facility, such as when traveling between DoD properties or when at another Federal (non-DoD) property or facility;
- providing protective services to DoD officials, visiting dignitaries, and other assigned personnel;
- monitoring and showing police presence at the Secretary of Defense's private residence;
- not on duty; and
- on other missions not specified herein.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, “[t]his General Order is currently being studied to determine what changes need to be made to comply with this recommendation. Officers will be queried to determine where they don't understand requirements which are already found in the General Order. This action will be completed no later than June 30, 1999.”

The Director's comments are responsive to our recommendation.

A2. The Chief, DPS, in coordination with the WHS General Counsel, identify the law enforcement agencies with which DPS would work during a contingency, both on and off the Pentagon Reservation, and:

- initiate discussions with those agencies to define each agency's authorities, roles, and responsibilities during a contingency; and
- prepare an appropriate MOU between DPS and each of the other agencies formalizing the agreements on these issues.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, “DPS already has a Memorandum of Understanding (MOU) with the District of Columbia, Prince George's County, Alexandria, and the Metro Transit Authority. DPS is in the process of formalizing MOUs with the Federal Protective Service and the U.S. Park Service. Previous attempts to establish an MOU with Arlington County have not been successful, because of that police chief's reluctance to approach the County Board.

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A. Roles, Responsibilities and Relationships

Arlington police have preferred to work with oral agreements. Nonetheless, MOUs will be initiated with Arlington and Fairfax Counties before June 30, 1999.”

“It is specifically noted that the last large demonstration which occurred at the Pentagon showed that DPS can and does work closely with neighboring law enforcement authorities. It should be noted that jurisdiction to act either exists or it does not; an MOU cannot change the existence or non-existence of jurisdiction.”

The Director’s comments are generally responsive to our recommendation. However, as discussed in the draft report, DPS also does not have MOUs with the FBI Washington Field Office; or the Virginia or Maryland State Police Departments. The FBI clearly would be involved in a Pentagon contingency, and the Virginia or Maryland State Police Departments could be involved in a contingency at a site where DPS operates. DPS, therefore, should also pursue MOUs with these law enforcement organizations.

A3. The Chief, DPS, in coordination with the WHS General Counsel, initiate discussions with the Defense Criminal Investigative Organizations to define each organization’s authorities, roles, and responsibilities when conducting investigations on the Pentagon Reservation and at DoD facilities in the National Capital Region, and then execute MOUs formalizing the agreements on these issues.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, “DPS already has a written MOU with the Army’s CID. The Navy has been reluctant in the past to initiate a written MOU. DPS nonetheless will attempt to initiate MOUs with the Navy and the Air Force within the next month, and will have completed agreements no later than September 30, 1999. With regard to DCIS, crimes are routinely referred to them when they fit within the parameters of the cases which they consider. Accordingly, no MOU is required with DCIS.”

The Director’s comments are generally responsive to our recommendation. However, DPS’ existing MOU with USACIDC only addresses instances in which USACIDC will support and assist DPS investigations. In addition, the MOU is based on the erroneous conclusion that “... DPS is the agency responsible for the investigation of all criminal acts occurring within the Pentagon and other designated Department of Defense (DOD) buildings, both U.S. Government owned and leased, located within the National Capital Region which house U.S. Army personnel and activities...” DPS, therefore, should also pursue a complete MOU with USACIDC that is based on each agency’s actual jurisdiction and authority.

A4. The Chief, DPS, upon completing actions in response to Recommendations 2 and 3 above, conduct training and take other actions as necessary to ensure that all DPS employees (police officers, investigators and security guards) are fully cognizant of, and thoroughly understand, their law enforcement and investigative authorities, particularly in reference to the different properties on which they operate.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that DPS was implementing this recommendation.

The Director's comments are generally responsive to our recommendation. However, until actions are completed in response to Recommendations A2 and A3, we are not convinced that DPS training and other actions can be sufficiently detailed to ensure that DPS police officers, investigators and security guards fully understand their authority. Accordingly, in responding to this final report, DPS should provide information on the specific training and other actions that it has taken or plans to take in response to this recommendation. This information should specifically identify actual or estimated completion dates for individual training and other actions, and describe how they address differing DPS authority at the various locations where DPS operates.

B. ORGANIZATION AND MANAGEMENT

We did not identify specific problems in DPS' organizational structure. However, we found that DPS' management control program for its law enforcement operations does not include needed control mechanisms. Additionally, DPS managers do not always adequately pursue issues identified through their management control program. Had DPS applied common internal management controls, it could have avoided many of the operational and management problems discussed in this report.

Management Program

Office of Management and Budget Circular A-123, "Management Accountability and Control," June 21, 1995, established standards for assessing, correcting, and reporting on internal management controls (IMC). DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996, implemented the IMC program in DoD. DPS General Order 1100.20, "Internal Management Control Program," November 12, 1991, implemented the program in DPS. This general order requires, among other things, that the Deputy Chief review the program annually.

DPS does not have a general order or other policy to guide its actions in developing, managing, or tracking accomplishments under a strategic plan or other goals and objectives program. As a result, ineffective IMC was a recurring theme during our evaluation. In some instances (discussed later in connection with DPS' inspections, weapons accountability, and confidential funds programs), DPS issued general orders setting forth policy, but did not follow the policy it created. In other instances (discussed later in connection with DPS' evidence and criminal investigative programs), DPS did not adopt effective policy or program guidance. In yet other instances (officers carrying personal weapons to and from work), DPS conducted internal inspections that identified deficiencies in policy coverage or implementation, but management did not act to resolve those deficiencies.

We also identified an instance where DPS managers could not explain why they collected, but did not act upon, data showing that the Court Liaison, which is located in the Security Coordination Section, routinely processed more traffic tickets than DPS officers wrote. Though the Court Liaison data reflected a situation that was not possible, these results were repeatedly reported up the chain-of-command without management questioning the data or requiring corrective action. We can only assume that the information was either not relevant to DPS' mission or that managers did not understand its relevance. In either case, the time and effort devoted to the data collection and

reporting was nonproductive and could have been applied more productively in other areas.²¹

We contacted the Deputy Chief and several branch chiefs regarding any goals and objectives programs that might be in effect at DPS. According to the Deputy Chief, DPS has a goals and objectives program organized by fiscal year (FY), which the Chief approves. He also advised that "exigent circumstances" precluded development of a FY 1997 program and that the FY 1998 program was still under consideration. Upon asking the branch chiefs whether they had formal goals and objectives for their programs, one advised "yes" and another advised "no."²² The one who responded affirmatively proceeded to describe an internal system where improvement or interest areas "bubble up" from lower echelon DPS employees for senior management approval. The system he described appeared to be more an employee suggestion program than goals and objectives as included in a strategic plan. This branch chief replied in the negative when we asked whether he was tracking accomplishments against specific FY 1997 goals and objectives and whether he was developing specific goals and objectives for FY 1998.

We did locate and review fragments from DPS' FY 1995 and FY 1996 goals and objectives program, as well as a draft FY 1998 program. The goals and objectives in these programs were developed within individual work sections and then approved by their respective branch chiefs. The Support Services Branch and Operations Branch were developing FY 1998 goals and objectives and advised they might be implemented in January 1998. Their stated goals and objectives, however, were neither tied to nor related to overarching DPS goals, objectives, or strategies. In addition, although each branch would be responsible for program management and tracking, neither branch established procedures or processes to meet their responsibilities for doing so.

According to the Deputy Chief, continually improving customer satisfaction, while not a written goal, is very important to DPS. The Deputy Chief advised that about a year ago he directed the Records and Communications Section to sample DPS customer satisfaction by conducting follow up with every fifth or sixth person who asked DPS for assistance. He also advised that he had not received any feedback on this survey effort.²³

Management Comments and Our Evaluation

The Director, Administration and Management, generally concurred with our findings and recommendations. The General Counsel, Department of Defense, fully concurred and advised that our recommendations provided an improved framework for the continued development of DPS management, training and operations. The

²¹ We do not say or imply that this situation is indicative of DPS management reporting overall. We did not attempt to assess overall integrity in DPS management reporting.

²² Following our inquiries, the Operations Branch and the Support Services Branch were both tasked to prepare FY 1998 goals and objectives.

²³ The Chief of the Records and Communication Section advised that the survey was never initiated.

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B. Organization and Management

management comments are reproduced in their entirety as Appendix F. Specific management comments are addressed below in connection with the individual recommendations.

Recommendations

B1. The Chief, DPS, take action to implement and ensure compliance with DoD internal management control programs and requirements.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that DPS was already implementing this recommendation.

The comments are responsive to our recommendation.

B2. The Chief, DPS, adopt and implement a strategic goals program that:

- has a firm nexus to WHS management priorities;
- includes customer satisfaction as a goal or objective;
- includes a management process for formally reviewing accomplishments against stated goals, based on specific measurement criteria and data collection methods for the measurements; and
- identifies and prioritizes key DPS processes supporting the organization's core competencies, and defining the essential data required for process evaluations and the method(s) used to collect the essential data.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, “[a] strategic goals program already exists within DPS and the Real Estate & Facilities Directorate. DPS plans to develop a more encompassing, long range strategic plan during calendar year 1999.”

The comments are responsive to our recommendation.

C. PERSONNEL

Although we identified some exceptions, overall, DPS' pre-employment and in-service employee screening processes are adequate and effective, as is its overall training program. We found, however, that some DPS staff should be classified as security guards rather than as police officers. At least 30 DPS police officers are routinely assigned to fixed posts and perform security guard functions. These positions meet the Office of Personnel Management (OPM) classification standards for GS-085 (security guard), not GS-083 (police officer), and should be reclassified accordingly. In addition, if some DPS fixed posts can be filled with security guards, perhaps all fixed posts could be staffed with security guards. DPS needs to reconsider its current policy of staffing these posts with police officers. In considering this issue, DPS should review its current employee positions based on actual duties and responsibilities to ensure that all positions are classified and graded in accordance with OPM standards.

DPS needs to standardize its physical fitness requirements for non-EST police officers. However, DPS must also recognize that many of the current DPS police officers and criminal investigators were hired without being subject to a continuing physical fitness requirement. DPS should either "grandfather in" these employees or reassign them to positions that do not require a high degree of physical fitness.

Finally, DPS needs to develop procedures to ensure that it dispenses discipline fairly and consistently and that it also distributes employee overtime assignments equitably. Unless DPS management takes affirmative initiatives in these areas, and unless it improves communications with its line personnel, the organization will almost certainly continue to experience serious employee morale problems.

1. Employee Screening Process

According to CALEA standards, an agency's police officer selection process should include a background investigation to verify applicants' credentials, review any criminal record, and interview at least three personal references. CALEA also provides that personnel who conduct background investigations should be trained in collecting this type of information, and that background investigation records should be retained for at least three years. General Order 1300.23, "Conditions of Employment and Selection Standards for Police Officer Applicants," January 11, 1993, requires DPS police officers to meet and satisfy OPM employment and selection standards and to complete FLETC basic training.²⁴ This general order also requires a background investigation on applicants, including checks on criminal history, driving history, employment references and, if applicable, military history. A criminal history check that reveals a felony conviction or multiple misdemeanor convictions is grounds for nonselection. In addition,

²⁴ The FLETC training requirement may be waived for an applicant who has successfully completed a basic police-training course and who has not been out of law enforcement for more than three years.

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18 U.S.C. § 922(g)(9) (the Lautenberg Amendment to the Gun Control Act) prohibits Federal officials from carrying firearms if they have been convicted of a misdemeanor offense involving domestic violence; such a conviction, therefore, would eliminate an otherwise qualified candidate.

In assessing DPS' selection process, we arranged for a National Crime Information Center (NCIC) check on each DPS employee to identify any with a criminal record. These checks identified 31 DPS officers with NCIC records. Twenty records involved former FPS officers and referred to incidents that occurred more than 10 years before the officers were transferred to DoD. Since these officers were not hired by DPS, these particular cases were not an issue in our assessment. The NCIC records also included some files without reported case outcomes, and others involved incidents that occurred when the individuals were juveniles.²⁵ After excluding case dismissals, acquittals, not guilty determinations, and former FPS employee records, we reviewed the remaining six cases in detail. Our results are summarized below:

- One current police officer was charged with burglary at age 18. Another current police officer was charged (at age 17) with disturbing the peace and assaulting a police officer. Both individuals subsequently entered active military service. DPS hired them after they completed 20 year military careers and received honorable discharges.
- One current police officer was arrested for housebreaking at age 16. DPS hired this individual 24 years later.
- One current police officer committed two misdemeanors, one in 1966 and another in 1967. DPS hired this individual 24 years later.
- One current police officer was hired in 1991, without DPS discovering that he had received non-judicial punishment under the Uniform Code of Military Justice for using illicit steroids, a charge for which the individual was separated from military service. DPS subsequently identified this omission and initiated a suitability investigation. The WHS Personnel Security Office conducted the investigation. DPS management decided to retain the police officer after reviewing the results of the investigation.
- One current employee, not a police officer, was convicted of making a false statement on a Government form in connection with a bank loan after becoming a DPS employee. DPS' recurring screening process identified the problem. This individual is currently undergoing a suitability investigation to determine whether dismissal from government service is warranted.

We also identified an instance in which DPS' employment screening process did not include complete prior employment checks. In this case, DPS hired a police officer. After the individual completed FLETC training, DPS experienced problems with the individual's conduct. DPS then determined that the officer's prior employer, the

²⁵ We did not assess responsibility for incomplete NCIC records, or why juvenile records were included.

Arlington County Police Department, had suspended the individual due to misconduct. The DPS supervisor responsible for performing the applicant background checks did not make inquiries of the former employer, an omission contrary to both DPS policy and good hiring practice. As a result, DPS assumed responsibility for a problem employee who should not have passed the pre-employment screening process.

2. Position Classification

DPS employees are competitive status, career employees, and their position titles and grades must be classified in accordance with OPM position classification standards.²⁶ While OPM position classification standards recognize substantial similarities between police officers and security guards, the standards provide that the distinction between the two positions must be made. To aid in making the distinction, OPM defines primary duties for the positions as follows:

Police work: "... the performance or supervision of law enforcement work in the preservation of the peace; the prevention, detection, and investigation of crimes; the arrest or apprehension of violators; and the provision of assistance to citizens in emergency situations, including the protection of civil rights." Typical police work includes activities such as: "patrol work, traffic control, canine operations, operating control centers and communications networks, and court liaison."

Security Guard work: "... the performance or supervision of protective services work in guarding Federally owned or leased buildings and property; protecting Government equipment and material; and controlling access to Federal installations by employees, visitors, residents, and patients. The purpose of security guard work is to protect and prevent loss of materials or processes which are important for national defense, public health or safety, or as national treasures."

As of February 5, 1998, DPS had 234 employees classified as GS-083 police officers (including supervisors) and 10 employees classified as GS-085 security guards. However, DPS has not established a need for GS-085 (security guard) positions. Instead, DPS operating policy calls for rotating police officers among patrol, traffic, and fixed post assignments.²⁷ According to DPS, its officers must possess all of the police skills included in its standard employee position description (PD) for a police officer because its officers must work rotating assignments. DPS has 10 security guards who are used to staff fixed entry posts at the Pentagon or at other DoD facilities in the area. These security guards were all originally hired for police officer positions, but DPS converted them to security guard positions after they were unsuccessful in completing FLETC training.

DPS has approximately 30 fixed posts at the Pentagon and at other DoD facilities in the National Capital Region. All of these fixed posts must be staffed during the first

²⁶ TS-87, "*Grade Evaluation Guide for Police and Security Guard Position, GS-083 and GS-085*," April 1988.

²⁷ Some DPS police officers are assigned to Emergency Services Team, Master Patrol Officer and Field Training Officer positions. The position descriptions and the requirements for these positions are different.

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shift (7:00 am to 3:00 pm), but only about 24 must be staffed during the second shift (3:00 pm to 11:00 pm) and 20 during the third shift (11:00 pm to 7:00 am). Therefore, DPS has approximately 74 fixed-post shifts that must be staffed each day. While DPS staffs some of these posts with police officers who are also routinely assigned to traffic, patrol and other operations, at least 30 police officers (excluding current security guards) are routinely assigned to fixed posts and are seldom rotated among different assignments. DPS' operating practices, therefore, are not consistent with its policy of requiring police officer positions for all assignments.

DPS police officers who are routinely assigned to fixed posts and who perform security functions meet the OPM classification standards for GS-085 security guards and should be reclassified accordingly. In addition, if some DPS fixed posts can be satisfactorily manned with nonrotating security guard assignments, all DPS fixed posts could probably be staffed with security guards instead of police officers. We recognize that DPS' policy of staffing all positions with police officers affords them greater flexibility and gives a larger employee base from which to meet its significant overtime requirements. There is a need, however, for DPS to explore the pros and cons of this policy. With WHS support, DPS should review its current employee positions based on actual duties and responsibilities to ensure they are properly classified in accordance with OPM standards.

3. Physical Fitness Requirements

DPS has taken steps to improve its physical fitness requirements for police officer hiring and retention. In addition, on January 9, 1998, the Secretary of Defense wrote to the Director, Administration and Management, addressing several Pentagon issues. In this letter the Secretary specifically addressed physical fitness, stating that "... [a]lthough some improvement has been noted with regard to the overall appearance of the Defense Protective Service, I am still frequently unimpressed with the personal appearance of some of the members of the force, suggesting that more rigorous standards with regard to physical fitness and personal appearance may be in order."

Neither OPM requirements nor CALEA standards address a minimum level of physical fitness that should be required for police officers. CALEA provides that for accreditation purposes, police organizations should have written policy that:

- governs the provision of physical examinations for sworn employees; and
- specifies criteria for general health and physical fitness to be maintained by sworn employees.

Similarly, OPM standards for police officer positions do not require physical fitness testing; nor do they specify a minimum level of physical fitness to become or remain a Federal police officer. OPM position classification standards acknowledge the physical demands that work assignments place upon police officers. Thus, classification takes into consideration whether or not the job is primarily sedentary or if it requires

physical exertion on a regular and recurring basis. It is then up to the employing Federal agency to determine if specific physical fitness testing is needed to maintain a well-prepared and capable police force. Specifically, 5 C.F.R., Chapter 1, Sections 339.203 and 339.204, provide that:

“Agencies are authorized to establish physical requirements for individual positions without OPM approval when such requirements are considered essential for successful job performance. The requirements must be clearly supported by the actual duties of the position and documented in the position description. Agencies must waive a medical standard or physical requirement established under this part when there is sufficient evidence that an applicant or employee, with or without reasonable accommodations, can perform the essential duties of the position without endangering the health and safety of the individual or others.”

We are unaware of a Federal civilian organization similar to DPS that has adopted a continuing physical fitness testing requirement. Neither FPS nor the Capital Police has such a requirement. In fact, civilian Federal police forces, including DPS, have generally relied on physical screening imposed during police academy training to ensure they hire only physically fit police officers. While these organizations may have physical fitness facilities and allow their officers duty time for physical fitness training, they generally do not require recurring physical fitness testing. We are mindful that DoD management would prefer a professional Pentagon police force that is physically-fit and that has a professional appearance, especially for those duties that involve interacting with senior officials visiting the Pentagon. On the other hand, we are likewise mindful that adopting continuing physical fitness requirements for DPS police officers could: adversely affect management relations with employees; lead to individual comparisons with similar organizations; and result in a need for justifying why a DPS police officer position requires a physical fitness standard in the first place.

DPS position descriptions for police officers include different physical demands, based on the OPM classification standards, depending on whether the officer is assigned to the Emergency Services Team, is a Master Patrol Officer (MPO), is a Field Training Officer, or is in a non-specialized police officer position. While DPS generally relies upon FLETC to ensure that its new police officer hires are physically fit, it also requires officers assigned to the Emergency Services Team to successfully complete strenuous physical fitness testing each quarter. An EST member who does not satisfactorily complete a quarterly physical fitness test is not allowed to remain an EST member. Similarly, to become a Master Patrol Officer, a DPS police officer must successfully complete the same physical fitness testing given to EST members. Once hired for or promoted into the position, however, a Master Patrol Officer is not required to meet a continuing physical fitness standard to remain in the position. Other DPS police officers, including Field Training Officers, are not subject to physical fitness testing once they successfully complete FLETC training.

The special duties and requirements associated with the Emergency Services Team clearly warrant more stringent physical fitness requirements. However, we did not identify and cannot discern any justification for DPS’ use of different physical fitness

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standards for Master Patrol Officers, Field Training Officers, and non-specialized police officers. Unless DPS can articulate specific job-related requirements for different levels of physical fitness within the same job series, we believe that DPS should standardize its physical fitness requirements for all non-EST police officers.

It is important to recognize that DPS police officers are subject to standard Federal pay, benefits, and retirement programs. Unlike GS-1811 criminal investigators (who may retire with full benefits after 20 years of service), GS-083 police officers may retire with full retirement benefits only after reaching age 55 and completing 30 years of Federal employment. As a result, DPS has an aging workforce that includes some police officers who were originally FPS hires and who were reassigned to DPS in 1987. These employees were hired without being subject to a continuing physical fitness requirement. While OPM standards allow DPS to adopt more strenuous physical fitness requirements, DPS should either “grandfather-in” its current employees or assign them to positions that do not have a continuing physical fitness requirement. If DPS determines that it should staff its fixed posts with GS-085 security guards, police officers who are unable or unwilling to complete recurring physical fitness tests could be reassigned to security guard positions; however, this approach would probably not further DoD management’s desire for improved appearance and should be accomplished only after due consideration of appropriate personnel regulations.

4. Pay and Benefits

Many DPS employees complained that they are among the lowest paid police officers in the Federal Government, working as they do at the GS-083-5 or GS-083-6 level. They noted, and we confirmed through contact with GSA, that FPS recently increased its working-level police officers to the GS-083-7 and GS-083-8 levels. We confirmed with DPS that their police officers at the working level remain at the GS-083-5 and GS-083-6 levels. We noted that DPS management has hired or promoted individuals into GS-083-7 level positions, but these are specialized rather than entry-level police officer positions. Positions at the GS-083-7 level are established in DPS’ Emergency Service Team, Master Police Officer, and Field Training Officer programs. A comparison of entry level salaries between DPS and other Federal police officers was prepared by WHS. This comparison shows that DPS annual starting salaries are within \$700 of the average entry-level Federal police officers for the Washington, D.C. area. However, other police agencies have working-level police officer positions that go up to the levels of GS-083-7 and GS-083-8 without also achieving a specialty designation comparable to an Emergency Service Team member or Master Police Officer. As noted below, OPM has recently reviewed the grade structure for FPS police officers. The results of OPM’s review may impact on the grade levels of FPS personnel and can thereby influence the perception of DPS employees that they are in under-graded positions.

In this regard, GSA officials charged with classifying FPS positions told us that in December 1997, OPM completed a review of all FPS positions to identify those that

should be reclassified. The results of the review, when published, should be readily transferable to DPS for use in assessing whether DPS positions are properly graded. DPS, with assistance and support from WHS, should conduct such an assessment after release of the OPM results. DPS should then take appropriate action to address disparities.

5. Discipline and Adverse Actions

The administration and adjudication of discipline is an issue of major concern to DPS employees. Responses to our employee survey showed that only 8.6 percent of DPS officers and 57.2 percent of DPS supervisors believe DPS applies discipline fairly all or part of the time. We identified a number of cases that suggested problems in this area.

During FY 1997 and FY 1998 (through January 13, 1998), DPS initiated 48 adverse personnel actions. At the time of our fieldwork, final actions were pending on nine of these cases. The records in the 39 completed cases include examples of seemingly incommensurate employee treatment. These examples, which cover 21 of the 39 completed cases, follow:

- Sixteen DPS officers were disciplined for not following written instruction and receiving overtime pay to which they were not entitled. The WHS employee relations staff recommended suspending each officer without pay for 3 to 10 days. DPS did not follow the recommendation; instead, it issued reprimands to nine officers and did not take any action against the remaining seven officers.
- A current DPS employee falsified personal pay records and received 40 hours of unearned annual leave, 24 hours of unearned sick leave, and 76 hours of unearned overtime. DPS suspended the employee for 10 days, but did not require the employee to repay the funds obtained improperly.
- Two GS-083-6 Police Officers were disciplined for failing to follow written and supervisory instructions, one on two different occasions. One was suspended without pay for 2 days. The other was suspended without pay for 5 days on one occasion and 10 days on the other occasion.
- A supervisor assigned to head the SECDEF personal security detail was absent without leave (AWOL) for several months during which the individual was a fugitive from justice. Several arrest warrants were issued for various unlawful acts that the supervisor committed while evading arrest. The supervisor was arrested approximately 3 months later and was returned to the Washington Metropolitan Area. DPS reinstated the employee pending adjudication. The supervisor was returned to pay status but assigned to perform administrative and other tasks while protracted personnel actions were undertaken. The individual was not terminated from Federal service until almost a year later. Many DPS officers viewed the actions in this case as favorable treatment for this officer. Several DPS officers commented to us that they could hardly expect to be reinstated if they abandoned their posts for 3 months while fleeing from the law.

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- Regarding the final item above, 5 C.F.R. §752 is the personnel regulation that governed DPS' actions in the case. Although DPS' actions were not contrary to 5 C.F.R. §752, they were clearly based on a very lenient application of the regulatory requirements and contributed to the other employees' perceptions. Specifically, 5 C.F.R. §752 requires an agency to give an employee against whom a removal action is proposed "... at least 30 days advance written notice ... stating the specific reasons for the proposed action." It also requires the agency to give the employee "a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer." The regulation, however, provides for an expedited procedure "... when the agency has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension..." The DPS removal action involved an employee with outstanding arrest warrants for car theft and other crimes sufficiently serious for DPS to have believed the employee would be sentenced to imprisonment. Therefore, rather than allowing the matter to continue for almost a year, DPS could have chosen to proceed under the expedited process.

Overall, we believe that DPS would benefit from expanding its procedures for processing employee complaints to include a feedback mechanism for the complainants. The procedures should ensure that complainants are informed of the status of their complaints during the review process and the results when the reviews are completed. DPS should also consider establishing a Board of Disciplinary Review that reports directly to the Chief and is responsible for ensuring equitable and timely adjudication of employee discipline matters.

6. Training Program

Many DPS employees alleged deficiencies and favoritism in training. We found, however, that DPS' training program is logical and responsive to its employees' needs. As noted previously, DPS requires its police officers and criminal investigators to complete basic training at FLETC.²⁸ DPS also offers its employees additional training, as follows:

- a. **General Training.** Training for police officers includes DPS authority and jurisdiction; use of force; handling classified material; lost and found procedures; X-ray and metal detector monitoring; bomb threat procedures; suspicious package procedures; report writing; computer training; and assorted special training that supervisors request or approve for individual police officers.

²⁸ We identified two employees whom DPS sent to the FLETC basic training class two or more times. The repeat classes were at least 5 years apart except for one instance in the case of one employee. In this case, DPS sent one employee to the basic training class three times between 1991 and 1997, and the employee still did not pass the course. Both employees were hired as police officers and transferred to security guard positions after attending FLETC the first time. The repeat training was to enable the employees to regain police officer status.

b. **In-Service Training.** All police officers are required to attend in-service training every 18 to 24 months. This training includes Bivens litigation,²⁹ case preparation; 4th and 5th Amendment issues; use of force; preliminary investigations; defensive tactics; stress management; and diplomatic immunity. Officers are also scheduled for FLETC's 40 hour Continuing Legal Education Training Program. Other training includes hazardous material handling; nuclear, chemical and biological (NBC) procedures; bloodborne pathogens/hepatitis B/A; and AIDS in the workplace.

c. **Practical Training.** All DPS officers are required to take practical training exercises, including defensive tactics; baton training; narcotics; patrol; and gamma live fire training, which uses videos and other training devices to simulate real life situations. In addition, DPS officers are given training to test skills in responding to burglary, sexual assault, traffic stops, and many other scenarios through interactive videos designed for "live fire."

d. **Additional Training.** As officers progress in experience and grade they have opportunities for additional training, including the Master Patrol Officer course and the leaders development course. An Emergency Services Team training regimen is available for officers who are selected for assignment to EST. In addition, all DPS employees are encouraged to apply for job related college courses.

For FY 1995, DPS spent \$99,995 on training, which resulted in 288 DPS officers and supervisors taking 1,083 courses and being credited with completing 23,393 course hours.

7. Overtime

Overtime is a major issue for both DPS employees and management. Many DPS employees depend on overtime to supplement their salaries, and management depends on overtime to fill manpower vacancies. General Order 2300.24, "Overtime Procedures, Operations Branch," November 30, 1994, provides that DPS will allocate overtime on a first-come, first-served basis, with employees assigned to the shift requiring the overtime being given priority over employees from other shifts. During interviews, a number of DPS employees complained that they were precluded from signing up for overtime because they were on duty when the overtime sheets were posted and were therefore forced to wait for relief at their duty posts before they could physically sign the list. They also alleged that DPS managers favored certain employees in assigning choice overtime duties. In addition, there were allegations that certain employees received the same, recurring overtime assignments as payoffs for not complaining about DPS on other matters.

²⁹ Since Federal officers or agents seldom act under the color of law of a state, territory, or the District of Columbia, they generally are not subject to liability under 42 U.S.C. §1983 (Civil Action for Deprivation of Rights). In *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), however, the U.S. Supreme Court effectively created an analogy to 42 U.S.C. §1983, making Federal agents and officers liable for constitutional torts.

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We were unable to evaluate DPS' overtime to the extent necessary to fully address the employee complaints or the issues raised in the congressional letter identified previously. Due to DPS' change to the Defense Civilian Personnel Pay System (DCPPS) in 1996, and because historical data from the previous system were treated as a "dead database," we were able to obtain overtime data for only the 22 pay periods beginning September 29, 1996 and ending August 2, 1997, i.e., the most recent pay period ending date at the time of our data request.³⁰

For the 22 pay periods ending August 2, 1997, DPS' overtime totaled 100,292 hours, which equals approximately 4,560 hours per pay period and projects to approximately 119,000 hours annually. During these 22 pay periods, individual employee overtime ranged from 3.5 hours for one employee to 1,450 hours for another, and averaged 404 hours per employee or 18.5 hours per biweekly pay period. Overall, the overtime was distributed relatively equally among the staff, with no employee having more than 1.45 percent of the total.

According to DPS, assignment schedules for a typical 8 hour work shift require 80 employees to cover all duty posts. DPS, however, has only 70 people available and, after taking leave, training, and other absences into account, only about 65 employees are actually available for duty.³¹ DPS uses overtime to make up the difference. Based on a typical duty shift, DPS' overtime needs total about 360 hours per day (15 people times 8 hours per shift times 3 shifts) or 131,400 hours per year (360 hours per day times 365 days). DPS officers, however, also work overtime on special occasions to meet protection needs relating to events such as Presidential or Vice Presidential visits to the Pentagon. In addition, DPS overtime includes "walk-time," which is the time required for an employee to reach a specific duty post after arriving at a central area for roll call and weapon issuance and the return trip at the end of the duty shift.³² DPS has calculated standard walk-times for each duty post. During the three months of May, July, and October 1997, DPS walk time was approximately 998 hours, which represents approximately 154 hours per pay period and 3,996 hours annually.

We found that DPS does not always allocate overtime to its employees in accordance with its stated policy. We reviewed three employee overtime sign-up sheets that individual DPS employees provided. These sign-up sheets included three instances

³⁰ We were unable to obtain any data in automated form because the responsible staff at Bolling Air Force Base was involved in Phase 2 of the DCPPS conversion.

³¹ DPS has 234 police officers and 10 security guards. After excluding supervisors (34), DPS has 210 police officers and security guards (70 per shift) to staff security posts during three daily work shifts.

³² The walk-time concept began with FPS and continued for DPS when GSA transferred the Pentagon protection mission in 1987. Code of Federal Regulations, Title 5, Part 550, Section 550.112(b), revised January 1, 1997, states "[t]he computation of the amount of overtime work of an employee is subject to the following conditions: '[t]ime spent in pre-shift or post-shift activities. A pre-shift activity is a preparatory activity that an employee performs prior to the commencement of his or her principal activities, and a post-shift activity is a concluding activity that an employee performs after the completion of his or her principal activities..."

in which employees who signed up for overtime were skipped, and employees below them on the sign-up sheets were given the overtime. In at least one instance, an employee who complained after being skipped on the overtime list was paid as though the individual had worked the overtime. The employee who actually worked the overtime was also paid.

8. Color Guard Overtime Issue

In April 1997, the DPS color guard garnered unexpected publicity when a local television news station reported that the Deputy Chief might have improperly used the color guard at his church. The event occurred in Towson, Maryland, a community approximately 53 miles north of the Pentagon. Despite the adverse publicity, neither WHS nor DPS conducted an inquiry into the matter. During our review, DPS managers acknowledged using the DPS color guard, other employees, and DPS vehicles in the Towson, Maryland, event.

Many fraternal and professional organizations, including police departments, maintain teams that present flags and participate in civic ceremonies, funerals, parades, and other community events. In fact, we contacted four law enforcement organizations in the Washington, D.C., area and determined they all have such teams, variously named color guards, honor guards, or ceremonial teams. CALEA does not include standards for this type operation or activity.

DPS General Order 1300.10, “DPS Honor Ceremonies: Funeral Detail,” March 20, 1990, is the only policy DPS has that governs this kind of activity. According to this general order, “... [u]pon the death of a member of the Defense Protective Service (DPS), and with the permission of the family, an Honor Guard contingent will be established for the purpose of paying last respects to the family of the deceased, serve as pallbearers, if required, and pay last tribute to the officer at the gravesite.”

The general order includes guidance on officer dress and the use of DPS vehicles in funeral ceremonies. It does not, however, establish policy or procedure for DPS participation in activities or events other than a funeral involving a DPS officer. More specifically, the general order does not address:

- criteria for selecting guard members or deploying the team;
- a process for approving team deployments or after-action reports; or
- whether team member participation is on a voluntary basis or if participation entitles the member to overtime pay.

DoD Directive 5410.18, “Community Relations,” July 3, 1974, and DoD Instruction 5410.19, “Armed Forces Community Relations,” July 19, 1979, set forth DoD guidance on supporting public events. In addition, 5 C.F.R. §2635, “Standards of Ethical Conduct for the Executive Branch” prescribes overall guidance. In particular, paragraph V.B.2.(a) of DoD Directive 5410.18 provides that DoD support and

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participation must not directly or indirectly “endorse or selectively benefit or favor, or appear to endorse or selectively benefit or favor any private … religion, sect, religious or sectarian group, quasi-religious or ideological movement…” Moreover, paragraph F.2.b.(2) of DoD Instruction 5410.19 prohibits DoD support of religious groups, and paragraph F.2.c.(2) of the instruction prohibits DoD support to programs located at a religious facility. In addition, DoD Instruction 5410.19, Paragraph G. 3., provides that the Government may not incur costs in providing community relations support, except for certain specified activities.³³ Further, 5 C.F.R. §2635.702, “Use of Public Office for Private Gain,” provides that:

“… An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.”

This section also provides:

“… An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.”

In addition, 5 C.F.R. §2635.705 provides:

“(a) Use of an employee’s own time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempt under 5 U.S.C. 6301(2),

³³ DoDI 5410.19, paragraph G.3. provides that DoD support of community relations programs that are not authorized in paragraph G.2. of the instruction shall be at no additional cost to the Government. Paragraph G.2., in turn, covers:

“… community relations programs that are specifically authorized by public law, executive order, or the Secretary of Defense, and the following types of programs when they are in the primary interest of the Department of Defense:

- a. Official Federal Government functions.
- b. DoD or civic-sponsored observances of the United States or host country national holidays.
- c. Official civil ceremonies and functions.
- d. Speaking engagements.
- e. Events considered to be in the national interest or in the professional, scientific, or technical interests of the DoD Component or element, when approved by the Assistant Secretary of Defense (Public Affairs) or the Commander of an overseas Unified or Specified Command, as appropriate.
- f. Direct support of recruiting and personnel procurement activity, when the cost of such support is charged to recruiting or personnel procurement programs funds.”

has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties.

(b) Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation."

In particular regarding the use of Government vehicles, Title 31 U.S.C. Section 1344(a) provides that United States Government motor vehicles are to be used only for an official purpose. DoD regulation DoD 4500.36-R, "Management, Acquisition, and Use of Motor Vehicles," March 1994, implements this statutory provision within the DoD. Specifically, paragraph 2-5 of the regulation provides that:

"The use of all DoD motor vehicles ... shall be restricted to official purposes only. Federal Property Management Regulations ... provide that each Federal agency shall ensure that Government carriers are used for official purposes only; e.g., to further the mission of the agency. When questions arise about the official use of a motor vehicle, they shall be resolved in favor of strict compliance with statutory provisions and the policy section of this Regulation."

The regulation further provides that:

"The determination as to whether a particular use is for official purposes is a matter of administrative discretion to be exercised within applicable law and regulations. In making such a determination, consideration shall be given to all pertinent factors, including whether the transportation is ... (1) Essential to the successful completion of a DoD function, activity, or operation; and (2) Consistent with the purpose for which the motor vehicle was acquired."

Finally, Title 31 U.S.C. Section 1349(b) provides that:

"An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office."

This statutory provision is implemented at paragraph 1-3 of DoD 4500.36-R.

The DPS started its color guard team approximately 5 years ago, well after General Order 1300.10 was adopted. According to the Deputy Chief, the color guard enhances DPS' visibility and liaison within the law enforcement community, thereby contributing to morale and DPS esprit de corps. The color guard members all volunteered for the additional duty, which is not identified specifically in their position descriptions. To date, approximately 15 DPS officers have attended a two week training course presented by the elite U.S. Army Old Guard, Fort Myer, Virginia. Approximately 10 DPS officers are currently on the active team roster, and they have all been issued special ceremonial uniforms, accouterments, and shoes. The color guard manager estimated the special uniform and other items cost approximately \$700 per officer. The manager, as well as the officer in charge, advised that color guard deployments frequently

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require overtime, either for the color guard members or for police officers called in to cover the color guard member's regular work schedule.

DPS participation in the Towson, Maryland, event followed a written request contained in a letter dated March 14, 1997. This letter, which was prepared on non-letterhead paper, was addressed to the Chief, DPS, and was signed jointly by "Bishop Joseph A. McCargo, Sr. Pastor, Covenant Church, Inc." and "Enoch H. Williams III, Deputy Chief, Defense Protective Service."³⁴ The letter specifically requested that the DPS ceremonial unit post flags at 1900 hours on April 3, 1997, at a worship conference in Towson, Maryland. The conference was to run from April 3-5, 1997.³⁵ Another letter, dated March 20, 1997, on Covenant Church, Inc., letterhead paper was signed by the church pastor and sent to Fort McNair requesting international flags for the Towson event. This letter identified the DPS Deputy Chief as the church's point of contact. Fort McNair disapproved this request.

At approximately 1530 hours on April 3, 1997, seven members of the DPS color guard (including its manager) departed the Pentagon and drove to Towson, Maryland, in a DPS van. After arriving at the location, they practiced their drill (posting U.S., Maryland, Virginia, and DPS flags). Following their practice, members of the team went to a local fast food outlet for dinner and returned to perform the actual drill at 1900 hours. The team returned to the Pentagon at approximately 2200 hours, leaving the flags posted until the event ended on April 5. The following week, two DPS police officers, using a DPS van, drove to the church's offices in Laurel, Maryland, and retrieved the flags, staffs, and stands. The color guard members were paid a total of 50 overtime hours. Due to an administrative error, one member who performed honor guard duty instead of his regular duty was paid for both 8 regular hours and 6.5 overtime hours when he should have only been paid for 8 regular hours. The officer in charge, who has been associated with the color guard since its inception, advised that the color guard has never participated in another private or religious event.

At the Deputy Chief's request, at least four additional DPS employees also participated in the Towson event. These individuals volunteered their personal time and performed security/usher duties. We interviewed each of these employees and each stated that their participation was completely voluntary, and none of them felt pressured to donate their time. Three of these employees drove to Towson in an unmarked DPS police cruiser. The employee who drove, a Sergeant, recalled that his supervisor told him to take the cruiser. The supervisor, who was also one of the four participating employees and a passenger in the police cruiser, said he assumed that use of the DPS vehicle was permissible, since the Deputy Chief had requested their participation and because the

³⁴ The Deputy Chief is both a deacon and a trustee in the Covenant Church.

³⁵ The event was identified as the first annual "International Worship Conference" with a "Call to Worship" theme.

color guard was using a DPS vehicle. The third occupant in the cruiser, a DPS Captain, said he did not even think about whether using a Government vehicle was permissible.³⁶

According to the Deputy Chief, he suggested the church request because he was proud of the DPS color guard and thought that participation would reflect positively on DPS. In addition, the Deputy Chief acknowledged that he signed the request using his official DPS title. He stated, however, that it was not his intention to influence a favorable decision on the church request. He further advised that he now regrets his action due to the negative reflection on the team and DPS.

The Chief, DPS advised that, although he was aware of the television news report, he did not request a special inquiry because he knew the facts and had approved the color guard's participation. The Chief also indicated that, because the request was unusual, he consulted with his supervisor (Director, Real Estate and Facilities, WHS) prior to approving the participation. He further advised that he specifically alerted his supervisor to the fact that the Deputy Chief's church was involved. According to the Chief, his supervisor agreed that using the color guard in this instance was permissible.³⁷ The Chief further advised that:

- he has never received a similar request and, therefore, has never approved or disapproved DPS honor guard participation in a similar event;
- he approved the request because he thought it was reasonable to support a church's effort to deter crime;
- he could offer the support without impeding his mission;
- he believed the time and distance involved permitted the support;
- he approved the honor guard participation, but not because the request involved the Deputy Chief or his church; and,
- he was unaware of DoD Directive 5410.18, "Community Relations," July 3, 1974, DoD Instruction 5410.19, "Armed Forces Community Relations," July 19, 1979, and 5 C.F.R. §2635 at the time.

We believe that DPS' participation in the Towson, Maryland, religious event was contrary to statutory and policy restrictions. DPS incurred costs in connection with the participation, which was contrary to the restrictions in DoD Directive 5410.18 and DoD Instruction 5410.19. DPS incurred cost for 50 overtime hours as a result of the color

³⁶ The use of Government vehicles by DPS personnel for personal reasons is apparently not limited to quasi-official activities. DPS officers are routinely seen using their Government vehicles to go to lunch in the vicinity of the Pentagon. On one recent occasion a DPS police cruiser was involved in an accident while the officers were using it to go to lunch. The use of DPS motor vehicles under these circumstances may not be in accordance with Title 31 U.S.C. §1344(a) and the DoD implementing policy, DoD Regulation DoD 4500.36-R.

³⁷ The supervisor, who is now retired from Federal Service, did not recall the Chief telling him about the Towson event or seeking his approval for the Color Guard participation.

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guard member participation. This cost resulted from using official time for nonofficial purposes, which was contrary to 5 C.F.R. §2635.705. DPS also incurred cost for using the DPS van and police cruiser for round trips to Towson, and cost for using the DPS van for a round trip to Laurel, Maryland, the following week to retrieve DPS equipment. Using official vehicles for these purposes was contrary to 31 U.S.C. §1344(a) and DoD Regulation DoD 4500.36-R. While we believe that the use of Government DPS vehicles in this instance was contrary to Title 31 U.S.C. §1344(a), we nevertheless believe that the facts of the case do not support the conclusion that the use was willful for the purposes of Title 31 Section 1349(b).

Furthermore, although no personal gain or benefit can be identified as resulting from the participation, we believe the Deputy Chief acted contrary to 5 C.F.R. §2635.702 in using his official title to request a Government service for the benefit of his church. Accordingly, DPS should take action to obtain reimbursement for the costs incurred as a result of participation in the Towson religious event. Furthermore, while the Towson religious event appears to have been an isolated or unusual event, it shows a clear need for DPS to develop clear policy and procedures to govern its color guard operations.

9. Sexual Misconduct Issue

During our evaluation, we received complaints alleging sexual misconduct at DPS. Due to the serious nature of these allegations, we pursued them to determine if a criminal investigation was warranted.

In reviewing the allegations, we interviewed the employee who presented the information to us initially, as well as eight current or former DPS employee identified as potentially able to support an allegation or who might have first-hand information regarding an allegation. The interviews did not produce corroborating evidence. Since some of the allegations involved overtime pay, we also attempted to correlate them with overtime records (time and work location) for particular female employees to see if any pattern emerged that might support the allegations. As stated previously, however, we had overtime records for only the 22 pay periods that ended August 2, 1997. These overtime records did not show a pattern or otherwise support the allegation. Absent credible evidence supporting any of the allegations, we were unable to substantiate them.

10. Employee Morale

Shortly after beginning our fieldwork, DPS employees began approaching us for an opportunity to provide input to our evaluation. Of DPS' total staff (298 employees), we interviewed approximately 50 DPS employees at their request. To ensure that all DPS employees wishing to provide input would have an opportunity to do so, we devised a survey form and made it available to all DPS employees. This survey allowed employees to respond anonymously. Overall, 124 employees (46.8 percent of DPS' current law enforcement workforce) responded to the survey. We received responses from 110 males and 10 females. The total included 92 police officers (74.2 percent of the

total), 28 supervisors (22.6 percent of the total), and 1 support staff employee (0.8 percent of the total). The respondents had worked with DPS and its GSA predecessor for periods ranging from 1 month to 39 years, with the average respondent having 9.9 years with DPS. The overall survey results are summarized in Appendix C.

The survey identified significant employee dissatisfaction with management, the pay scale, and the retirement program. It revealed divisions between supervisors and police officers, and between those who work primarily as police officers and those who work primarily as security guards. It also identified racial and gender divisions, and indicated generally low overall employee morale.³⁸ Specifically, the survey results showed that 22.7 percent of the officers and 10.3 percent of the supervisors, respectively, viewed management and pay as the two areas most needing improvement (Survey, Question 14). Employees also identified the same two issues as what they “liked the least” about their jobs: Leadership, Management and Supervision (40.0 percent) and Pay and Benefits / Retirement Program (17.2 percent). With respect to management, 78.3 percent believed that management did not dispense or only sometimes dispensed employee discipline fairly, and 83.1 percent believed that discipline was not dispensed or only sometimes dispensed consistently. Similarly, 53.2 percent believed their supervisors did not treat them fairly and honestly or did so only sometimes. There were recurring complaints that management practiced favoritism in discipline. In addition:

- 67.7 percent believed they were not treated equally with respect to assignments or were treated equally only sometimes (Survey, Question 11);
- 66.9 percent believed they were not treated equally with respect to training opportunities or were treated equally only sometimes (Survey, Question 11);
- 74.2 percent believed they were not treated equally with respect to career advancement opportunities or were treated equally only sometimes (Survey, Question 11);
- 69.3 percent believed they were not treated equally with respect to race or were treated equally only sometimes (Survey, Question 11);
- 67.8 percent believed they were not treated equally with respect to gender or were treated equally only sometimes (Survey, Question 11);
- 37.9 percent believed that overtime work was not allocated fairly or was allocated fairly only sometimes (Survey, Question 12);

³⁸ We subjected our survey results to a Chi-Squared (χ^2) test for independence, which is a recognized, accepted statistical approach used to determine the distribution, at various confidence levels, of two nominal factors. Based on the results, at a 99 percent confidence level, we can say that officers and supervisors have widely divergent attitudes about: the fair application of discipline (Survey, Question 1); the consistent application of discipline (Survey, Question 2); fair and honest supervisor treatment (Survey, Question 7); clarity and comprehension of DPS policy (Survey, Question 9); fair treatment with respect to assignments (Survey, Question 11A); equal treatment with respect to training opportunities (Survey, Question 11B); equal treatment with respect to career advancement (Survey, Question 11C); equal treatment with respect to race (Survey, Question 11D); equal treatment with respect to gender (Survey, Question 11E); and clarity of requirements for promotion (Survey, Question 13).

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- 57.3 percent were unsure or did not understand the requirements for promotion in their positions (Survey, Question 13).

Some survey respondents, primarily supervisors and newer police officers, presented opposing views. Although agreeing that pay and benefits needed to be increased to become comparable with other Federal law enforcement organizations, they commented that the DPS areas requiring most improvement were recruiting, hiring, and personnel actions. They indicated that DPS needed higher standards (including physical fitness) to allow the agency to hire only qualified law enforcement officers. In addition, they indicated that OPM requirements were not well suited to a law enforcement organization and prevented DPS from taking timely disciplinary actions when an employee got into trouble. They also indicated that some DPS employees viewed every issue in racial terms when race was not the issue. They also attributed problems to the labor union or the union officials who represent DPS employees. Thirty-four respondents (15.8 percent) viewed recruiting, hiring, and equipment as the areas requiring most improvement (Survey, Question 14).

The survey also highlighted the need for clearly defined DPS authority and responsibility. Specifically, 39.5 percent of the survey respondents reported less than complete understanding of limits on their police authority (Survey, Question 4), and 42.7 percent reported less than complete understanding of the jurisdiction in which they operate (Survey, Question 5). In addition, 37.1 percent indicated less than full understanding of their job requirements (Survey, Question 3).

Management Comments and Our Evaluation

Except for Recommendation C1, a portion of Recommendation C4 and Recommendation C8, the Director, Administration and Management, concurred with our findings and recommendations. Specific comments are addressed below in connection with the individual recommendations.

Recommendations

C1. The Chief, DPS, with WHS support, take action to:

- reclassify as GS-085 (security guard) those GS-083 (police officer) positions currently used to staff fixed posts on a nonrotating assignment basis; and,
- determine whether all DPS fixed posts should be staffed with GS-085 security guards, rather than GS-083 police officers.

Management Comments and Our Evaluation

The Director, Administration and Management, disagreed with our recommendation. According to the Director, nothing would be gained from reclassifying those officers who normally staff fixed posts and the action would have a severe impact

on morale, which DPS management has worked long and hard to repair. The Director advised that if the officers were reclassified, they would retain their current pay levels and most likely would file grievances or other complaints against the reclassifications. The Director also advised that DPS had studied this issue many times and concluded it was in the best interest of both DPS and Pentagon employees' for all DPS officers to be classified as GS-083 Police Officers. As further support for this position, the Director advised:

- Personnel in the GS-085 (Security Guard) series cannot be graded any higher than pay grade GS-05, and it is difficult to recruit and motivate able employees for positions in this series. It is more desirable to have young, quality employees (like those who can be recruited for the GS-083 series) guarding the doors at the Pentagon.
- Unlike the GS-083 series, there is no viable training for GS-085s. Employees in the GS-083 series receive extensive training and are ready and able to react to any eventuality that might present itself. A recent example was an incident at the Pentagon Mall Entrance where a properly-trained police officer was able to thwart a possibly-disastrous circumstance, largely because of his training.
- Having all officers working in the same series allows for greater flexibility in assignments. Rotating officers to different duties allows for training and keeping current in all aspects of the job.
- The White House and Capital are both protected by forces made up entirely of GS-083s. Department of Defense employees in the National Capital Region certainly deserve no less protection.

Our draft report recognized some of these reasons for DPS' policy to staff with GS-083 Police Officers and not hire GS-085 Security Guards, and we fully understand these reasons. However, these reasons do not justify misclassifying actual employee positions. As discussed in our draft report, at the time of our fieldwork, DPS had at least 30 GS-083 Police Officers who were not routinely rotated to police officer duties and, instead, were used to staff fixed-post (security) positions. In addition, although contrary to its general policy, DPS had 10 GS-085 Security Guards who had been reclassified into those positions after they were unable to successfully complete basic police officer training at FLETC. This factor operates against the rationale for DPS' current hiring policy. Furthermore, as also discussed in our draft report, DPS police officers are subject to general civil service retirement (30 years service and 55 years old), and DPS needs to provide for its aging police officers. Finally, as pointed out in our draft report, the employee survey that we conducted identified a morale problem among older police officers assigned to fixed-post positions and younger, more physically capable police officers. Accordingly, while we fully understand and appreciate the reasons for the Director's nonconcurrence with our recommendation, we cannot accept those reasons and ask the Director to reconsider the position in responding to this final report.

C2. The Chief, DPS, with WHS support and utilizing the recent OPM review of Federal Protective Service positions, determine whether DPS police officers are properly graded based on actual duties and responsibilities for their positions.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, the OPM review was completed but was of little or no value because it invalidated GSA's reclassification of police officer positions to higher pay grades. The Director advised that DPS and GSA were involved in a joint study, which should be completed by August 31, 1999, looking at viable ways to assure proper pay grades for their police officers.

The Director's comments are responsive to our recommendation, provided that the joint study results in actions that both comply with OPM requirements and ensure proper grades based on actual duties and responsibilities for DPS positions, as we recommended. We ask the Director to provide updated information in responding to this final report.

C3. The Chief, DPS, take actions to standardize DPS physical fitness requirements for non-EST police officers.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, DPS is now standardizing physical fitness requirements for all newly-employed non-EST police officers and this recommendation should be fully implemented by February 1, 2000.

The comments are responsive to our recommendation.

Draft Report Recommendation C4. The Chief, DPS, require action to establish:

- standard disciplinary actions concerning types of recurring employee wrongdoing and conditions that would warrant a departure from the standard;
- procedures for processing employee complaints that includes feedback to complainants on status and results; and
- a Board of Disciplinary Review, possibly including representatives from other law enforcement organizations, responsible for ensuring equitable, timely adjudication of employee discipline matters, which reports directly to the Chief.

Management Comments and Our Evaluation

The Director, Administration and Management, generally agreed with our recommendation, except for the portion recommending a Board of Disciplinary Review. With respect to the portion dealing with standard disciplinary actions, although agreeing, the Director advised that separate action was not required because Administrative Instruction (AI) 8 and AI 37 already require standard discipline and, to the extent there have been deviations, they have been isolated instances. Similarly, the Director advised

that procedures already in place require feedback to complainants on the status and results of their complaints. The Director cited union grievance procedures, EEO complaint procedures, and DPS General Orders 1300.7, 1300.8 and 1100.25 as prescribing these procedures. With respect to a Disciplinary Review Board, the Director took the position that such a board is unnecessary and would duplicate existing organizations. He explained that WHS' Labor, Management, and Employee Relations (LMER) Office, the WHS Office of General Counsel, the Merit Systems Protection Board (MSPB), and the Equal Employment Opportunity Commission (EEOC), among others, all ensure equitable and timely employee discipline adjudication.

We are not totally convinced that the seemingly incommensurate employee treatments discussed in the draft report represented isolated instances where there were deviations from standards. As noted in the draft, they involved 21 (54 percent) of 39 completed adverse personnel actions initiated during FY 1997 and FY 1998 (through January 13, 1998). On the other hand, we agree with the Director that DPS employees have adequate procedures to pursue remedies if they believe they have been disciplined inconsistently or unfairly. Accordingly, we are dropping this recommendation in the final report. The subsequent recommendations have been renumbered accordingly.

C4. The Chief, DPS, take action to ensure that supervisors who make overtime assignments do so equitably.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, although GO 1300.17 already addresses this issue, DPS is studying the matter and will take appropriate steps to assure equitable overtime assignments.

The comments are responsive to our recommendation.

C5. The Chief, DPS, take action to revise the current policy for internal affairs investigations, requiring direct internal affairs reporting to the Chief, DPS, and an alternative reporting mechanism, such as to the Director, Real Estate and Facilities, WHS, when internal affairs allegations involve the Chief, DPS.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, DPS was modifying GO 1100.25 in this regard and would complete the review by March 31, 1999.

The comments are responsive to our recommendation. In responding to this final report, the Director should update this information and provide a copy of GO 1100.25, as modified.

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C6. The Chief, DPS, take action to revise General Order 1300.10 to identify specifically the types of community relations events that the honor guard may support, and requiring these events to be selected in accordance with Federal law and DoD policy. General Order 1300.10 should set forth specific criteria for selecting and training team members, approving their participation in community events, and for funding participation. The policy should also include a follow-up reporting process that documents participation, costs, and the actual or anticipated Government benefits derived from the participation.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that DPS would implement required changes immediately.

The comments are responsive. The response to the final report should include updated information on the specific changes completed.

Draft Report Recommendation C8. The Director, Washington Headquarters Service, request a review of the April 3, 1997, use of the DPS Color Guard at a church service in Towson, Maryland, from the appropriate standards of conduct office. The review should include determining whether DPS should be reimbursed for costs incurred in participating in the Towson religious event.

Management Comments and Our Evaluation

The Director, Administration and Management, disagreed with this recommendation. The Director advised that he personally reviewed the facts surrounding the incident and has challenged the Chief, DPS, to ensure appropriate regulatory guidance is always followed. The Director also advised that he had determined not to request reimbursement for the cost incurred, since:

- the incident served as training for the officers involved; and
- it would be a public affairs error to request reimbursement at this time.

The comments are responsive to our recommendation. Since the Director has personally made the determinations which we intended in recommending an appropriate standards of conduct review, we are dropping this recommendation.

D. OPERATIONS

DPS' law enforcement operations include patrol, traffic, and fixed post operations; criminal investigations; and special operations. We identified serious operational and management problems, some spanning all operational categories, and others isolated to a particular category or categories. Specifically, DPS has problems in weapons accountability and firearms qualification. DPS also has problems with protecting and preserving evidence, and with oversight of confidential source funds.

DPS' policies and procedures for criminal investigations are not completely effective, and the program is not subject to effective management oversight. As a result, the DPS Criminal Investigation Section does not produce results commensurate with its workload.

1. Weapons Program

DPS law enforcement officers are issued 9mm Beretta handguns which they are authorized to carry while on duty.³⁹ They are required to turn in their weapons upon completing their duty shifts. DPS officers assigned to the Emergency Services Team also have access to other weapons and equipment, including sniper rifles and night vision equipment, which are available but not assigned to individual officers.

The DPS firearms program is subject to DoD Directive 5210.56, "Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties," February 25, 1992, which permits only qualified personnel to carry firearms. The program is also subject to DoD Manual 5100.76-M, "Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives," September 1992, which requires that all firearms be listed in the DoD registry; that unit-level quarterly inventories be conducted by weapon serial number; and that there must be a thorough investigation of lost or missing weapons. In addition, DoD 4140.1-R, "DoD Materiel Management Regulation," January 1993, requires DoD organizations, including DPS, to register their weapons in the DoD Unique Item Tracking Program managed by the U.S. Army Logistic Support Activity. Office of the Secretary of Defense Administrative Instruction No. 94, "Personal Property Management and Accountability," November 6, 1996, describes the accountability process for activities that WHS serves.

DPS general orders implement these policy requirements. General Order 1500.7, "Weapons Accountability," December 30, 1993, requires DPS to maintain a weapons inventory, conduct semiannual (not quarterly, as DoD 5100.76-M requires) weapons inventories by serial number, and to immediately investigate any missing weapon. General Order 1600.1, "Annual Weapons Qualifications Procedures," August 30, 1996,

³⁹ Ten officers elected to continue using their .38 caliber service revolvers when DPS adopted the 9mm Beretta as its standard handgun in 1991.

D. Operations

requires officers to qualify with their weapons every six months and provides that only officers who meet the qualification requirements may carry firearms. DPS does not comply adequately with the policies that govern its firearms program and has not established specific policy related to the specialized weapons utilized by its Emergency Services Team. Furthermore, due to the manner in which DPS acquired and maintains its weapons, we were unable to determine the full extent to which DPS weapons may be missing, lost, or stolen.

a. **Weapons Inventory.** Contrary to the provisions of General Order 1500.7, DPS does not maintain a master inventory for weapons and cannot account for some of its weapons. Although the GSA functional transfers to DPS in 1987 included the .38 caliber revolvers assigned to the officers involved in the transfer, WHS property managers could not determine whether an itemized inventory of those weapons accompanied the transfer. Our efforts to locate an inventory with FPS were unproductive. Further, DPS used International Merchant Purchase Authorization Cards (IMPAC) to acquire some specialized weapons and equipment. DPS did not maintain documentation on some IMPAC transactions, nor did DPS forward records on some of these transactions to the WHS Property Management Branch as Administrative Instruction No. 94 requires. Due to this inadequate audit trail, WHS property management previously concluded that it could not identify all weapons for which DPS should be accountable.

During our evaluation we identified five .38 caliber revolvers, one shotgun, and one 9mm Beretta for which DPS is clearly responsible but for which it cannot account. Our review determined that these weapons were not included in FPS' current inventory and were not destroyed in a large-scale FPS weapons destruction in 1995. We also determined that WHS previously surfaced these unaccounted weapons as an issue, but that issue was not resolved. In late 1996, and continuing through the first half of 1997, the WHS Property Management Branch conducted an inventory and identified seven missing weapons. In June 1997, DPS appointed an inspector to locate one (but not the rest) of these missing weapons. The inspector determined that this one weapon had been missing since March 1995, and recovery efforts had not occurred, partially because an October 1995 DPS inventory showed the weapon to be accounted for. In July 1997, the inspector referred the matter to the DPS Criminal Investigations Section. The Criminal Investigations Section opened an investigation and conducted two interviews, one in August 1997 and the other in October 1997, but did not otherwise pursue the case aggressively. Further, neither the inspector nor the criminal investigator entered the missing weapon into the National Crime Information Center database, which would have alerted other law enforcement organizations about a possible lost or stolen weapon. The criminal investigator did note that WHS identified six additional missing weapons, at least two of which were also shown as accounted for in the October 1995 inventory. However, the investigator did not include the additional weapons in the investigation because the Deputy Chief informed the investigator's supervisor that the weapons in question were not missing. The Deputy Chief did not, however, say where the weapons

were or identify them by serial number, and DPS has not taken further actions to resolve the missing weapons issue raised in the WHS inventory.⁴⁰

Other internal DPS weapons assessments have disclosed substantial confusion regarding weapons accountability. They also indicate inadequate management attention or commitment to resolving potentially serious weapons problems. In a July 1997 weapons accountability assessment, for example, the DPS assessor concluded that written directives were not sufficiently understood or were not followed. In reaching this conclusion, the assessor identified general orders and standard operating procedures related to inspections, but pointed out that DPS did not have and did not need DPS-wide written policy on issuing and accounting for weapons. The assessor either ignored or was unaware of GO 1500.7, "Weapons Accountability," December 30, 1993. The assessment report recommended additional administrative training for DPS personnel. It also recommended action to correct the ongoing unlawful practice of carrying personal weapons to and from work. According to the assessment report, some DPS officers carried personal handguns to and from work and stored them in the DPS weapons safe during their duty shifts.⁴¹ A July 1996 inspection report identified the same practice, and both reports recommended that DPS address this issue in written policy. DPS management did not act on these or other recommendations in either report.

b. **Firearms Qualification**. DPS does not have a suspense system and does not monitor its firearms qualification program to ensure that its officers meet the semiannual firearms qualification requirement. In addition, officers are apparently not precluded from carrying firearms if they do not requalify. We identified 19 instances in which officers did not requalify within 6 months as required, thereby allowing their firearms qualifications to expire for periods ranging from 10 days to more than 5 years. The commander of the Emergency Services Team had an 8 month qualifications lapse, and neither the Chief nor Deputy Chief had qualified since 1992. DPS did not monitor these lapses and did not deny these officers access to weapons during the periods in which they were not qualified to carry a firearm. We also identified a potentially more serious problem. In June 1997, DPS denied one officer access to a weapon due to concerns about the officer's emotional stability. The officer, however, continued to have access to the firearms safe in the communications area. Even after a routine safe combination change, the officer was given the new combination to the lock.

c. **Personal Firearms**. The DoD policy on carrying firearms is set forth in DoD Directive 5210.56, "Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties," February 25, 1992. This Directive

⁴⁰ On November 2, 1997, the DPS Operations Branch had a weapons sub-account showing 160 weapons. The administrative duty officers (ADO) responsible for ensuring weapons turn-in at duty shift changes, however, accounted for only 154 weapons. The ADOs could not explain why they could not account for all weapons on the sub-account. They theorized that this situation was because several senior officers keep their assigned weapons in their offices, not in the weapons safe, and the ADOs account for only those weapons received and stored at the end of the duty shift.

⁴¹ This issue is addressed in detail below under heading c. Personal Firearms.

Part II – Results of Evaluation and Recommendations

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“... [a]uthorizes DoD personnel to carry firearms while engaged in law enforcement or security duties, protecting personnel, vital Government assets, or guarding prisoners...”
According to the Directive:

“... Firearms shall be returned to a designated control point on completion of the assignment for storage and accountability in accordance with Component procedures. The Secretaries of the Military Departments and the Inspector General, Department of Defense may authorize exceptions to this requirement for the DCIOs.”

DPS General Order 1500.7, “Weapons Accountability,” December 30, 1993, sets forth DPS’ firearms policy. This policy requires DPS officers to:

- “... Sign for the firearm on the Equipment Log, at the beginning of ... [the] shift.”
- “... Verify the firearm serial number to ensure ... the correct firearm.”
- “... Sign the firearm back in on the Equipment log and turn the firearm over to the issuing/receiving officer [at duty shift end].”

During our evaluation, several DPS police officers asserted their “right” as Federal police officers to carry firearms to and from work at the Pentagon. Others advised that their actions were necessary personal protection measures, since they would be unsafe traveling to and from work in police uniform while unarmed.⁴² In addition, several officers advised us that they, and many other DPS officers and security guards, carry personal firearms to and from work. Some officers also advised us that they carry their personal firearms to their duty posts stored in handbags or briefcases, since they are prohibited from storing personal firearms in their DPS lockers. When transiting to and from work, these officers then holster their personal firearms to ready themselves against threats from potential lawbreakers. When asked how they reconciled these actions with specific DPS authority, the officers maintained they were “Federal police officers” with authority to carry weapons even when not on duty.

DPS law enforcement officers, including security guards, have law enforcement authority only while performing duties as authorized by 10 U.S.C. §2674. Therefore, any DPS officer who carries a personal weapon onto the Pentagon Reservation does so as a private citizen, not a Federal police officer, and the action may violate 18 U.S.C. §930(a). According to this criminal statute:

“... whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both”

Carrying a personal firearm onto the Pentagon Reservation also violates 32 C.F.R. §234.10, a Secretary of Defense rule that DPS is charged with enforcing. In addition, any DPS officer who carries a personal weapon to and from work at the

⁴² We note that DPS police officers and security guards have lockers and facilities where they can maintain and change clothing and not travel to and from work in uniform.

D. Operations

Pentagon is subject to Commonwealth of Virginia law in the same way as any other private citizen entering and exiting the Pentagon.⁴³

Various Commonwealth of Virginia laws address firearms under specific factual circumstances. The one that DPS officers should be most concerned with is Virginia Code §18.2-287.4, “Carrying loaded firearms in public areas prohibited; penalty,” which provides that:

“It shall be unlawful for any person to carry a loaded firearm on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place whatever nature that is open to the public (i) in any city with a population of 160,000 or more or (ii) in any county having an urban county executive form of government or any county or city surrounded thereby or adjacent thereto or in any county having a county manager form of government... Any person violating the provisions of this section shall be guilty of a Class I misdemeanor.”⁴⁴

DPS officers who carry personal weapons to and from the Pentagon should also be concerned with individual county ordinances. Virginia Code §18.2-287 empowers the governing body of any county to:

“... adopt ordinances making it unlawful for any person to carry or have in his possession while on any part of a public highway within such county a loaded firearm ... and to provide a penalty for violation of such ordinance not to exceed a fine of \$100. The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles, nor to persons acting at the time in defense of persons or property.”

As noted previously in this report, DPS inspections in 1996 and 1997 identified the personal firearms issue and recommended policy to address the matter. DPS management, however, did not take action on the recommendations and the problem continued. On November 20, 1997, in fact, we observed a DPS officer departing the Pentagon with a personal firearm. The officer advised that he had just gotten off duty and was on his way home. He was armed with a 9mm handgun in his DPS uniform holster. After we subsequently discussed the personal firearms issue with DPS management, on December 2, 1997, the Deputy Chief issued a memorandum to all DPS personnel reminding them that they were not authorized to carry personal firearms to and from work. Since personal firearms have been a continuing issue for DPS, we believe that DPS should address the matter directly in formal policy.

⁴³ Those officers who reside in Maryland or the District of Columbia and commute to work in Virginia must be concerned with additional firearms laws, i.e., those in effect in each jurisdiction crossed during their commutes.

⁴⁴ Although this law specifically excludes law enforcement officers from the coverage, DPS officers qualify as law enforcement officers only while on duty, which is why they are required to turn-in their service firearms upon completing their work shifts. To carry personal weapons, they would have to comply with applicable registration and permitting requirements.

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Overall, DPS' weapons program shows a lack of commitment and attention to the internal management controls necessary to secure and oversight sensitive weapons and to ensure that only qualified and dependable officers have access to weapons.

2. Collecting, Protecting, and Preserving Evidence.

Successful criminal prosecutions depend on a law enforcement organization's formal controls for protecting and preserving the integrity of the evidence it collects. These controls must include strict measures for receiving, handling, storing, and disposing of evidence. There must also be controls for documenting chain-of-custody and for otherwise eliminating opportunities for tampering, mishandling, misplacing, or destroying evidence. The CALEA standards require a written directive establishing extensive procedures, including:

- receiving, recording, packaging and labeling, notifying property owners or custodians, storing in designated secure areas, and releasing items (temporary and final releases);
 - limiting access to authorized personnel;
 - reporting on all property held by the agency;
 - reporting on inspections conducted at least quarterly to determine adherence to procedures;
 - conducting inventories whenever the person responsible for the function changes;
 - conducting annual audits by a supervisor not routinely or directly connected to the property control function; and
 - disposing of evidence within 6 months after legal requirements have been satisfied.

In addition, DoD Administrative Instruction 94, "Personal Property and Management Accountability," November 6, 1996, requires annual inventories and an inventory when a property custodian changes. The instruction also requires transactional recording when controlled property is transferred. DPS has not implemented these procedures.

The DPS evidence program is described in General Order 1800.1, "Evidence Custody," March 1, 1989. The general order focuses exclusively on DPS patrol officers, and requires them to surrender evidence to a temporary storage container that the Administrative Duty Officer maintains. The general order does not address other DPS personnel, including criminal investigators.⁴⁵ The general order also does not address security, access, or other standards for the evidence room; nor does it delineate

⁴⁵ Deficiencies in DPS evidence procedures as they relate to criminal investigations are discussed later in the Criminal Investigative Program section.

procedures for controlling chain-of-custody or releasing evidence for prosecution, laboratory analysis, or final disposal. Finally, it does not cover inspections, audits, or physical inventories to help control and protect evidence.

There is no record that DPS evidence has been subjected to physical inventory or audit. While DPS did perform evidence inspections in both 1994 and 1996, used CALEA standards as a basis for comparison in those inspections, and identified numerous deficiencies in its procedures and standards for evidence, DPS management did not take corrective actions based upon the inspection findings.

The current evidence custodian assumed responsibility in February 1997, without an inventory verifying the items transferred from the outgoing evidence custodian. More significantly, he reported that the former evidence custodian refused to surrender the evidence locker keys, and the alarm access codes were not changed upon the individual's departure. The incumbent stated that his efforts to obtain the keys through a supervisor were unsuccessful. Without a general order or standard operating procedure to support the efforts, the incumbent felt powerless to pursue the issue. Similarly, the custodian advised that DPS criminal investigators sometimes retain evidence for extended periods and then simply leave the items on the custodian's desk without an identifying evidence tag and without being given a property receipt. Again, without a general order or standard operating procedure, the custodian felt powerless and did not take action to rectify the problem.

As noted above, DPS internal inspections in 1994 and 1996 identified some of the same problems and recommended changes and improvements based on the CALEA standards. Needed changes and improvements, however, were not initiated based on either inspection.

Although there is no indication of DPS cases having been "dropped" by prosecutors as a result of evidence control problems, the potential for such an action does exist.

3. Criminal Investigations Program

The DPS Criminal Investigations Section (CIS) investigates crimes involving DoD property, employees, or employees' personal property. At the time of our evaluation, the CIS was staffed with four GS-1811 criminal investigators, including a GS-12 Supervisory Criminal Investigator responsible for the office operations, and one GS-083 Police Officer on rotational assignment to CIS.⁴⁶ In selecting its criminal

⁴⁶ We are not in this report questioning whether DPS should employ GS-1811 Criminal Investigators, or the qualifications and experience these investigators should have. In conducting research for future projects, however, we have noted that DoD general law enforcement organizations have approached the same type of need very differently. While some use criminal investigators, others use GS-083 Police Detectives, GS-1810 General Investigators, or another investigator job series. In addition, some that use criminal investigators use them in noncovered positions, so they are not subject to LEAP or 20 year retirement. In a future project(s), therefore, we intend to address whether policy or standards are needed in this area.

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investigators, DPS does not require an applicant to have a college degree or prior experience as a criminal investigator.⁴⁷

The CALEA standards for criminal investigations include, but are not limited to:

- The agency uses a case screening system and specifies the criteria for continuing and/or suspending an investigative effort.
- The agency provides checklists to aid in criminal investigations.
- A written directive establishes a system of case file management for the criminal investigation function, including a case status control system.

Although not specifically covered in CALEA, it is critically important for an investigative organization to protect and preserve evidence and grand jury information. It is also important to collect data on investigative results. The DCIOs, for example, routinely report their investigative results, including indictments, convictions, administrative actions, and monetary recoveries resulting from their criminal investigations. The DCIOs also distribute investigative information to appropriate managers, i.e., those with cognizance over the property or personnel involved in the investigations.⁴⁸ This enables managers to use investigative results in formulating new or revised policy and to take remedial or preventive administrative actions.

DPS does not employ the type of investigative accountability standards that the DCIOs employ. In addition, DPS management has not subjected CIS to strong management oversight to ensure that it produces meaningful, measurable results. Further, relevant information from CIS investigative reports is not routinely shared with appropriate DoD managers for use in formulating new or revised policy or for taking administrative or personnel actions. As a result, DPS criminal investigations have contributed only minimally to the DPS law enforcement effort.

a. **Policies and Procedures.** DoD has issued numerous directives and instructions setting forth policy to guide investigative efforts.⁴⁹ In addition, the DCIOs all have handbooks setting forth detailed requirements for their criminal investigators along with procedures and mechanisms to guide investigative actions. According to the DPS

⁴⁷ Although not required, two of the four current criminal investigators have college degrees, one a bachelor's degree (4 year college) and the other an associate's degree (2 year college). In contrast, according to the "Report of the Advisory Board on the Investigative Capability of the Department of Defense," January 1995, 100 percent of DCIS and NCIS agents have at least a bachelor's degree; approximately 89 percent of active duty military USACIDC agents have bachelor's degrees (43.5 percent) or associate's degrees (45.4 percent); 60 percent of civilian USACIDC agents have at least a bachelor's degree; approximately 63 percent of active duty military AFOSI agents have a bachelor's degree (47.3 percent) or associate's degree (15.5 percent); and over 57 percent of civilian AFOSI agents have at least a bachelor's degree.

⁴⁸ The DCIOs use various methods to share investigative information with DoD managers, including briefing individual managers on specific investigative issues, issuing management deficiency reports, and sharing excerpts or specific data from actual investigative reports.

⁴⁹ Appendix F lists various DoD policy documents in this area.

Supervisory Criminal Investigator, CIS has not had time to develop its own investigator's handbook and, instead, uses the DCIS Special Agents Manual. We believe that CIS' action in this regard is both reasonable and appropriate. However, based on our evaluation, CIS has not adequately followed that policy and guidance. We did not see any evidence, for example, that DPS' criminal investigators followed the principles in the DCIS Special Agents Manual relating to evidence, grand jury proceedings, investigative reports, and many other areas.

Case Screening. CIS opens new investigations on reported crimes with virtually no regard to gravity, solvability, prosecution potential, or recovery potential.⁵⁰ The only criteria used, which is not reflected in formal policy, is that an alleged crime must involve at least a \$500 loss to the Government.⁵¹ In addition, CIS does not have a checklist or other standard to ensure or measure investigative sufficiency. As discussed below, CIS ultimately closes 64 percent of its investigations for administrative reasons. In addition, only three percent of CIS investigations result in prosecutions.

Evidence. The criminal investigators in CIS mistrust or dislike DPS' central evidence storage system and have established an internal operating system of their own without formal policy or procedure. They store evidence in a common CIS security safe or in individual investigator's case files without an accountability record or log. Entry into the CIS office suite is controlled, but the safe used for evidence is open to all CIS investigators. While the investigators generally use this informal procedure as a temporary arrangement for evidence until items are turned over to the central DPS evidence custodian at a later date, this informal system could bring into question the integrity of evidence in subsequent prosecutions.

Grand Jury Information. The Supervisory Investigator was unaware that Rule 6(e) of the Federal Rules of Criminal Procedure limits access to grand jury information to those persons authorized, normally in writing, by an Assistant United States Attorney (AUSA). CIS, therefore, did not have a formal policy or procedures for safeguarding Rule 6(e) information from disclosure to unauthorized persons. While CIS did not have grand jury information in its possession at the time of our evaluation, CIS investigators have requested grand jury subpoenas and have received documents using such subpoenas in previous investigations.

Case Oversight. The Supervisory Investigator reviews all CIS cases for investigative sufficiency. Taking collateral duties into account, however, the Supervisory Investigator's ability to oversight CIS cases thoroughly is limited. Furthermore, CIS case oversight does not include a Branch Commander or other management review, even on a

⁵⁰ We recognize that some investigations (such as those involving rape, arson, and homicide) must be opened without regard to these considerations. Most CIS investigations, however, are not this type and CIS does not apply these considerations even to lesser crimes. As a result, CIS opens and devotes investigative time to cases that it ultimately closes for administrative reasons.

⁵¹ The Supervisory Investigator advised that DPS managers have encouraged increasing this dollar threshold, but have also referred lesser crimes for investigation.

Part II – Results of Evaluation and Recommendations

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random or significant case basis. Investigative reports are distributed outside CIS only to the Special AUSA (SAUSA) appointed to prosecute DPS criminal investigations. The SAUSA does not see all DPS investigative cases, but advised us that he frequently questions investigative sufficiency in the ones that are referred to him.

b. **Caseload and Case Results.** CIS criminal investigations do not typically produce substantial results.⁵² Between January 1, 1995, and December 4, 1997, DPS opened 408 investigations. The table below, which uses the case-type statistics that CIS collects, shows the status of these investigations as of December 18, 1997.

TABLE I
**STATUS OF DPS CRIMINAL INVESTIGATIONS OPENED
BETWEEN JANUARY 1, 1995 AND DECEMBER 4, 1997**

Status	No. Cases	
Pending Investigative Action	88	21%
Awaiting Prosecution Determination ⁵³	9	2%
Determined to be Unfounded	13	3%
Cleared by Arrest	39	10%
Cleared by Exception ⁵⁴	93	23%
Closed as Inactivated ⁵⁵	166	41%
Total	408	100%

As can be seen from Table I, CIS closed 64 percent of the cases based on exception (23 percent) and inactivation (41 percent) criteria. In contrast, CIS closed only 13 percent of the cases based on investigations that resulted in arrests (10 percent) or determinations that criminal allegations were unfounded (3 percent).

⁵² Criminal investigative data included in DPS' formal case tracking system, the Comprehensive Law Enforcement System (CLUES), were not as complete or current as data the Supervisory Investigator maintained in a separate system. Neither system tracked overall investigative results, such as indictments and convictions. They both tracked monetary amounts related to property recoveries. We used the Supervisory Investigator's more complete and current data for our evaluation.

⁵³ According to the SAUSA assigned to handle DPS cases, the SAUSA requested additional information from CIS on seven of the nine cases awaiting prosecution determinations, but at the time of our discussion had not received a response. These cases had been open from 2 to 3 years. The SAUSA advised that, following initial case referrals for prosecution, CIS investigators are generally unresponsive in accomplishing subsequent leads needed to prepare cases for trial.

⁵⁴ A case "Cleared by Exception" is one closed after an AUSA declines prosecution or after the witness(es) declines to continue cooperating in the investigation.

⁵⁵ An "Inactivated" case is one in which the Supervisory Criminal Investigator administratively decides to discontinue the investigation. Reasons include (1) not having logical investigative leads to follow, (2) not having sufficient time to pursue the investigation, or (3) the case having insufficient priority to warrant pursuing additional investigative action. Automobile recovery cases are generally closed by inactivation or exception.

Table II below summarizes CIS prosecutions and recoveries for these cases.

TABLE II
PROSECUTIONS AND RECOVERIES RESULTING FROM
CASES OPENED BETWEEN JANUARY 1, 1995 AND DECEMBER 4, 1997

	No. Cases	
Cases Prosecuted or Pending Prosecution	13	3%
Cases Resulting in Property Recoveries		
Recoveries to the Government	26	6%
Recoveries to Individuals	41	10%
Recovery Amounts	\$555,457	100%
Recoveries for the Government	\$202,083	36%
Recoveries for Individuals	\$353,374	64%
Motor Vehicle Recoveries	\$277,200	50%

As Table II shows, only 3 percent of the CIS investigations resulted in prosecution or were pending prosecution, and only 16 percent resulted in recoveries. Of the total monetary recoveries (\$555,457), 64 percent (\$353,374) were recoveries for individuals, not the Government. Further, 50 percent (\$277,200) of the total recoveries represented the estimated value of stolen motor vehicles that were recovered.⁵⁶ CIS' investigative role in stolen motor vehicle cases was limited because civilian police in other local jurisdictions recover most vehicles stolen from the Pentagon Reservation.

c. **Investigative Sufficiency and Timeliness.** To assess investigative sufficiency and timeliness in CIS criminal investigations, two of our senior criminal investigators reviewed 40 randomly selected DPS investigative case files in detail. Table III summarizes our observations regarding these cases. The most common CIS case-types are thefts of personal or Government property.

⁵⁶ We did not review court orders or other source documents to validate the dollar recoveries claimed.

TABLE III
**OBSERVATIONS REGARDING 40 RANDOMLY SELECTED
DPS INVESTIGATIVE CASE FILES**

Observation	No. Cases	
Investigative actions were complete and sufficient	11	28%
Investigative actions were untimely ⁵⁷	10	25%
Contact/follow-up with prosecutor was inadequate ⁵⁸	5	13%
Key witness(es) was not interviewed	4	10%
Evidentiary documents were not sought	3	8%
Case was closed due to lack of investigative jurisdiction	3	8%
Case did not have investigative leads	3	8%
Crime scene was not processed ⁵⁹	2	5%
DPS did not have jurisdiction but conducted investigation	2	5%
Consent search was not conducted when indicated	1	3%
Administrative action/remedy was not pursued	1	3%
UCMJ violation was not referred to Military Department	1	3%

We identified investigative omissions or problems in 70 percent (29 out of 40) of the cases sampled. In addition, while the investigations in the remaining 11 cases appeared thorough and skillfully completed, this did not necessarily lead to a prosecution. In 1 of the 11 cases, for example, the investigator conducted a thorough investigation, painstakingly collecting evidence to identify a suspect involved in multiple credit card thefts and their fraudulent uses. The SAUSA, however, declined to prosecute this case due to the investigator's prior history of misconduct and disciplinary actions.

d. **Relationship with AUSA.** An effective relationship between investigators and prosecutors is critical to ensuring that meritorious criminal cases are brought to trial. CIS, however, does not have an effective relationship with the AUSAs. According to the Supervisory Investigator, months or even years are sometimes required to obtain prosecution decisions from the SAUSA. The Chief, DPS, met with the SAUSA to address the timeliness issue. The Supervisory Investigator advised that an agreement to improve timeliness for handling CIS cases did not have a lasting effect. In addition, the SAUSA declined to prosecute two CIS investigators' cases due to the investigators' reputations.⁶⁰ At the time of our fieldwork, the SAUSA's disposition was adversely

⁵⁷ Up to 2 years between investigative steps.

⁵⁸ Investigative files rarely include references to prosecutor coordination or recommendations.

⁵⁹ Photographs, fingerprints, castings/moldings, sketches, etc.

⁶⁰ One of these investigators, who had a history of misconduct and disciplinary actions, is no longer with DPS. The other suffers from a perception problem not entirely of his doing. The Supervisory Criminal Investigator advised that this investigator, while assigned to the DPS uniformed section before becoming a criminal investigator, took a case to the AUSA for a prosecutive determination. After one AUSA declined the case, a DPS supervisor directed the individual to contact another attorney in the U.S. Attorney's Office.

affecting 50 percent of CIS' staff and, therefore, approximately 50 percent of CIS' investigative cases.⁶¹

The SAUSA agreed that relations with DPS investigators were not good. He also advised that DPS investigators do not follow up on requests for additional information needed to assess or prepare cases for trial. We note in this regard that following a SAUSA request, the Supervisory Investigator now acts as the DPS intermediary with AUSAs on all case-related issues and is responsible for ensuring all AUSA requests for additional work are properly pursued.

e. **Keeping Customers Informed**. There is neither DoD policy nor a CALEA standard for sharing information from investigative reports with appropriate management officials, even though such a policy or standard would increase the potential for remedial action in response to investigative findings. The MCIOs, in fact, have procedures for distributing relevant and appropriate information from investigative reports to cognizant commanders, directors, and/or functional managers when the investigations directly impact their people, property, or mission. These procedures allow managers to use investigative results in taking personnel actions, issuing reports of survey, improving operating procedures, and in taking other remedial actions. DPS does not have a policy on distributing information from its investigative reports and does not distribute such information, except in response to a specific request, to anyone outside DPS. Reports are provided on a routine basis only to the SAUSA. After the Supervisory Criminal Investigator reviews and approves a DPS investigative case file, it is filed without further distribution (even among DPS management).

f. **CIS Facility**. The CIS facility, located at the Navy Annex, is a small, open area with partition dividers and three adjoining small offices, which three staff investigators and a detailed police officer occupy. Documents, equipment, and personal belongings are stored in plain view. The investigators do not have an interview room, and victims and suspects frequently must be interviewed in full view of other investigators and office visitors. While neither DoD nor CALEA specify standards for an investigative facility, Defense Criminal Investigative Organizations generally have waiting rooms to separate visitors involved in sensitive investigations; they also have interview rooms to protect the privacy of victims, informants, and suspects. We did not identify specific cases in which DPS' criminal investigations were jeopardized due to

When the original AUSA learned about the second contact, the AUSA accused the individual of “shopping” for an attorney and complained to DPS management. DPS management fired the individual, but later reinstated him after an appeal in which the supervisor testified he had directed the second-opinion action, and the AUSA could not produce a policy prohibiting multiple AUSA contacts. Since that time, however, the AUSA has continued to mistrust and generally not accept cases from this investigator.

⁶¹ This situation may be somewhat complicated by the fact that the investigators are GS-1811s who receive LEAP and are subject to the 20 year retirement program. Neither of these programs is available to DPS uniformed police officers. However, this does not mean that a current DPS criminal investigator cannot be transferred, at management's discretion, to another DPS position in a different job series with the same journeyman grade level.

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inadequate facilities, but these facilities are of such quality that it is reasonable to assume the physical plant encumbers the investigative process.

g. **CIS Concerns.** CIS staff members related several concerns and issues that they believe seriously impact CIS performance.

Staffing. The Supervisory Investigator advised that inadequate staffing is a primary concern. He pointed out that CIS staff investigators are each assigned 20 to 40 cases at any given time, and this workload precludes thorough, timely investigations. He added that one CIS investigator (one of the two involved in the AUSA reputation issue) was restricted to limited duty during most of 1997.⁶² He added that with AUSAs generally declining work from two DPS investigators, CIS effectively had only two operating investigators (he being one) and could not reasonably accomplish its criminal investigative mission. The Supervisory Investigator said that he requested additional staffing, but DPS management did not act on his request. As discussed above, CIS does not have an effective case screening process and generally accepts cases for investigation with virtually no regard to gravity, or potential for solvability, prosecution, or recovery. Similarly, DPS does not have standards or criteria for identifying the number of investigators needed to accomplish a given caseload. Under these circumstances, we cannot conclude that DPS' staffing is inadequate for its investigative workload.

Collateral Duties. The Supervisory Investigator advised that his collateral duties and those assigned to one staff investigator frequently have a negative impact on the criminal investigative mission. The Supervisory Investigator and staff investigator spend a significant amount of time on internal affairs matters. The Supervisory Investigator, a senior DPS official, is also called upon frequently to teach, sit on boards, and to participate in management tasks. The staff investigator, a female, is frequently called upon to assist in situations when a female officer is required. She is also a critical incident negotiator and must participate in related training and exercises. We agree that these collateral duties reduce the time available for conducting criminal investigations.

4. Confidential Funds

Law enforcement organizations have different names for their operational funds. They typically use these funds for undercover operations, to pay confidential sources and informants, and for related incidental investigative costs. These funds are frequently maintained as cash, and the transactions are usually conducted in cash. An undercover officer, for example, may use cash from confidential funds to buy illegal drugs or stolen property in order to identify the nature and extent of an individual's criminal activity. Due to their nature, confidential funds require strict controls on both their maintenance

⁶² This investigator was in limited duty status from January 1997 until August 1998, when removed from Federal service. According to the Supervisory Criminal Investigator, this investigator was not removed from LEAP during the period because he was able to continue functioning as an investigator, performing background checks and pursuing investigative leads (behind-the-scene) in criminal investigative cases. The Supervisory Criminal Investigator also advised that this investigator continued working 10 hours per day.

and use in order to prevent misuse. The CALEA standards provide that such funds or accounts should be governed by a written directive that requires a system to document transactions; assigns specific authorities for accepting and disbursing cash; and ensures quarterly cash activity accounting. DPS has a \$1,000 confidential fund, and although it adopted policy for maintaining and using the fund in General Order 1100.27, "Confidential Funds," October 21, 1992, DPS has never used the fund and does not comply with the policy requirements established in its own general order.⁶³

General Order 1100.27 provides for DPS confidential funds disbursements as:

- direct payments to confidential informants;
- investigative funds for purchasing illegal drugs, contraband and other criminal evidence;
- expenditures for authorized undercover operations; and
- flash and front money.

The general order requires quarterly audits performed by an outside organization. The policy, however, does not require an appointed custodian who is required to sign a receipt or otherwise acknowledge responsibility for maintaining and protecting the cash fund; set authorities for receiving and disbursing funds; or, require a system to document such transactions.

The current DPS confidential funds custodian, who replaced the original custodian upon retirement in 1997, was unaware of the actual amount of cash on hand until we conducted a cash count.⁶⁴ The current custodian was never required to acknowledge receipt of the cash. In addition, neither a quarterly nor an annual audit has been conducted (as required) during the approximately six years since the fund was established. Our evaluation did not identify any record indicating the fund had ever been used.

Interviews with DPS criminal investigators indicated they were unaware that confidential funds existed. In addition, one investigator described using personal funds for operational purposes on at least one occasion. Overall, the facts indicate that DPS has not applied adequate internal management controls or attention to its confidential funds, nor has it trained its staff on how to use the fund.

5. Patrol, Traffic, and Fixed Post Operations

CALEA standards provide that a law enforcement agency should have a single method for determining days off and for assigning officers to shifts, beats, and posts.

⁶³ The WHS Financial Management Office provided DPS with \$1000 for this fund in 1992.

⁶⁴ Even though the custodian initially advised that only \$700 was on hand, our cash count accounted for the full \$1,000.

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This standard is not mandatory for accreditation, but is encouraged because a uniform procedure helps ensure impartiality in the assignment process.

DPS does not have a general order or other policy establishing standard procedures for officer assignments, and many DPS officers believe they are treated unfairly in the assignment process. Our employee survey (Appendix C) showed, for example, that 79.4 percent of DPS officers (excluding supervisors) do not believe they are treated equally with respect to assignments. This issue was also mentioned during our interviews with DPS personnel.

DPS officer assignments generally fall within two categories: fixed post and patrol. The Uniformed Services Section (Operations Branch) has responsibility over both. DPS maintains three eight hour shifts per day, seven days a week, in order to have continuous patrol and security services at the Pentagon that are also prepared to respond to incidents at off-Pentagon locations. Squad sergeants in the Uniformed Services Section are responsible for selecting and assigning officers to particular shifts, posts, and patrol sectors, including scheduling days off for individual officers. According to senior DPS supervisors, the squad sergeants apply personal discretion in making officer assignments based on their assessment of individual officers' capabilities and seniority. As a result, DPS cannot ensure that its officer assignments are consistent, which means that some officers could be treated unfairly in the assignment process. This situation appears to contribute to DPS' employee morale problems and could hamper DPS' effectiveness in accomplishing its mission.

6. Special Operations

Aside from the role, responsibility and relationship issues addressed in Chapter A, and other Emergency Service Team issues addressed individually throughout this report, we did not identify specific problems with DPS special operations.

Management Comments and Our Evaluation

The Director, Administration and Management, concurred with our findings and recommendations. Specific comments are addressed below in connection with the individual recommendations.

Recommendations

D1. The Chief, DPS, take action to expand the agency's general orders to include policies and procedures for:

- all DPS weapons, including specialized weapons not specifically assigned to individual officers, and specifically addressing the carrying of personal weapons on and off DoD properties in the National Capital Region; and

- handling Grand Jury information, including specific procedures for receiving, processing, safeguarding and disposing of such information in accordance with the protection accorded Grand Jury information under Rule 6(e) of the Federal Rules of Criminal Procedure.

Management Comments and Our Evaluation

The Director, Administration and Management agreed with our recommendation. With respect to the portion of the recommendation dealing with DPS weapons, the Director advised that the work was ongoing and would be completed by June 30, 1999. With respect to the portion dealing with Grand Jury information, the Director advised that the work was ongoing and would be completed by October 31, 1999.

The comments are responsive to our recommendation.

D2. The Chief, DPS, in concert with the WHS Program Management Branch, take action to standardize the accountability process for DPS weapons to conform with DoD policy. This effort should include an aggressive, thorough investigation to determine the total weapons for which DPS is accountable and the circumstances surrounding each missing or otherwise unaccounted weapon.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, the investigation that we recommended has been completed and there are no missing or unaccounted weapons. The inventory that was completed when the original 38s and shotguns were transferred from GSA was faulty, but there is currently an accurate inventory listing and the OSD Property Management Office verifies the inventory annually.

The comments are responsive to our recommendation.

D3. The Chief, DPS, take action to establish management processes and monitoring systems as necessary to prevent lapses in DPS officer firearm qualification testing and preclude firearms access to those officers who do not qualify or who are otherwise barred from carrying a weapon.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that procedures exist, all officers qualify with their weapons twice annually, and weapons are not issued to officers who do not qualify.

The comments are generally responsive. However, these procedures existed at the time of our fieldwork, but they were not being fully enforced, and DPS did not have a

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monitoring system to aid enforcement. We believe DPS management would benefit from a monitoring system that permits ready determinations as to the dates on which officers (1) last qualified to carry a weapon, (2) must requalify to maintain weapon carrying status, and (3) when appropriate, were denied weapon carrying status due to not meeting requalification requirements or another condition warranting withholding a weapon from the officer. In responding to the final report, we ask the Director to address the monitoring issue or, alternatively, describe other actions completed since our fieldwork to preclude the types of enforcement lapses identified during our fieldwork.

D4. The Chief, DPS, take action to adopt and implement an evidence program that, at minimum, prescribes standards and procedures for:

- assessing and certifying individual qualifications for an evidence custodian and formally appointing the custodian;
- limiting access to evidence holdings to the evidence custodian and other designated and authorized DPS officials with specific access requirements;
- transferring to the evidence custodian all physical and other evidence collected, seized or otherwise obtained by all DPS personnel in connection with any law enforcement or criminal investigative case;
- collecting, marking, preserving, packaging, labeling and storing evidence, including blood, body fluids and other hazardous materials;
- temporary evidence transfers to prosecutors, forensics laboratories and others when necessary and appropriate;
- special security and control over sensitive evidence, such as cash, jewelry, firearms, or drugs;
- conducting physical inventories annually and whenever an evidence custodian is replaced to ensure that evidence seized, collected, or otherwise obtained in connection with DPS law enforcement and criminal investigative cases is accounted for in the inventory;
- initiating investigative or other action as appropriate to resolve any discrepancy in the evidence identified in a physical inventory;
- returning or disposing of evidence within 6 months, or another justifiable, reasonable time period after prosecution or other legal requirements have been satisfied; and
- inspecting the evidence program at least annually to assess compliance with the prescribed program standards and procedures.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that DPS was revising its GO dealing with evidence custody and control and expected to implement the

revision by October 31, 1999. The Director also advised that a standard operating procedure (SOP) was being developed for the DPS Evidence Custodian and FBI would conduct training.

The comments are responsive to our recommendation.

D5. The Chief, DPS, require an immediate physical inventory of evidence in DPS' possession and determine whether:

- evidence known to have been collected can be accounted for in the current DPS inventory; and
- individual current inventory items may have lost their utility as evidence for prosecutions.

DPS should return current inventory items that are determined to have lost their utility in prosecutions to the owners or custodians, or dispose of those items, as appropriate.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that the inventory we recommended had been completed and proper evidence disposition had occurred.

The comments are responsive to our recommendation.

D6. The Chief, DPS, take action to align actual evidence custodian duties and responsibilities with the position designated as having those duties and responsibilities.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that DPS would take the action recommended in conjunction with its actions in response to Recommendation D4 above.

The comments are responsive to our recommendation.

D7. The Chief, DPS, issue policy for DPS criminal investigators that includes:

- criteria for initiating, continuing and suspending investigations;
- sharing relevant information from investigative reports with appropriate DoD managers responsible for the personnel or property involved in DPS criminal investigations;
- procedures for identifying, collecting and reporting investigative case results (from which goals and objectives should be formulated and tracked), including:

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- number of indictments;
- number of convictions,
- fine, penalty and restitution amounts collected for the Government, and whether the amount was collected through criminal, civil, or administrative means;
- fine, penalty and restitution amounts collected for non-Government parties, and whether the amount was collected through criminal, civil, or administrative means;
- the value of Government property recovered as a result of criminal investigations;
- the value of property recovered for non-Government parties as a result of criminal investigations;
- number of cases resolved; and,
- case timeliness.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director, the work is ongoing and will be completed by October 31, 1999.

The comments are responsive to our recommendation.

D8. The Chief, DPS, take action to identify a reasonable and appropriate caseload for a DPS criminal investigator and then adjust staffing for the Criminal Investigations Section accordingly. This caseload should be based on the environment in which DPS operates, including provisions in Memoranda of Understanding or operating agreements with other Federal or civilian criminal investigative and law enforcement organizations.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. The Director advised that DPS had taken steps to implement corrective action. According to the Director, DPS now has seven criminal investigators and each investigator is handling an appropriate caseload.

The comments are responsive to our recommendation.

D9. The Chief, DPS, determine whether the problem with prosecutors accepting investigative cases from certain criminal investigators has continued despite the Supervisory Criminal Investigator's intermediary actions and, if so, take action to resolve the problem. At management's discretion, a criminal investigator may be transferred to a different job series with the same journeyman grade level.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed with the recommendation, but advised that the problem giving rise to it no longer existed. According to the Director, DPS has taken steps to improve both investigative techniques and reports. Further, the “intermediary actions” previously in effect are no longer necessary, and prosecutors now deal directly with DPS investigators.

The comments are responsive to our recommendation.

D10. The Chief, DPS, either eliminate the current confidential fund and disburse the cash holdings, or issue guidance on properly using confidential funds and maintaining the account.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed and advised that the confidential fund had been eliminated.

The comments are responsive to our recommendation.

D11. The Chief, DPS, take action to implement a general order specifying procedures for scheduling and posting duty assignments, including rotation requirements.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. The Director advised that a new SOP will be completed by August 31, 1999, and will include procedures for scheduling and posting duty assignments, including rotation requirements, with an overall goal of maintaining maximum flexibility within permissible limits.

The comments are responsive to our recommendation. In responding to the final report, we ask the Director to provide a copy of this new SOP.

E. OPERATIONS SUPPORT

In the area of Operations Support, DPS has developed operational plans for handling civil disturbances, mass arrests, and terrorist attacks. Aside from the role, responsibility and relationship issues discussed in Chapter A, these plans are adequate to meet DPS mission needs. However, in other key support areas, DPS has a number of operational and management problems, including:

- policy documents do not adequately define the community that DPS serves, and DPS has not adequately defined either its customers or their needs;
- DPS does not have a policy covering crime analysis, and its current crime analysis reports (which are one individual's work) are not based on multi-jurisdictional trends and patterns that could affect DPS' operations;
- DPS does not proactively contact other organizations to either share information on criminal activities or to solicit input on how DPS could improve the services it provides;
- delays in the internal affairs function hamper personnel discipline procedures and cause employees to believe that DPS personnel procedures are unfair or do not work properly; and
- DPS has an inspections program that is not fully effective in identifying operating problems; moreover, it does not receive sufficient management attention to produce corrections when inspections identify problems.

1. Civil Disturbance, Mass Arrest, and Emergency Plans

DPS has adequate operational plans for handling civil disturbances, mass arrests, and terrorist attacks, and these plans satisfy DPS mission needs. In 1996, DPS developed the *10-90 Gold Plan*, a blueprint for reacting to a terrorist nuclear, biological, or chemical (NBC) attack on the Pentagon. The FBI and other organizations have cited this plan as a model for all Federal agencies. DPS has also developed and adopted a plan for handling hazardous materials incidents on the Pentagon Reservation.

General Order 2300.13, "Mass Arrest Procedures," August 11, 1992, and General Order 1700.2, "Continuation of Essential DoD Contractor Service (Contract Guard) During Crisis," March 16, 1992, set forth DPS' policy for responding to protests and civil disturbances. DPS policy is based upon advanced notification from media contacts about planned protests.⁶⁵ The only weakness we identified in DPS' plan for handling these disturbances is the number of protesters that DPS can arguably handle on its own.⁶⁶ The

⁶⁵ DPS relies on information from media sources that protests at the Pentagon are planned. This reliance is predicated on the assumption that protest groups routinely inform the media because they want publicity.

⁶⁶ One DPS supervisor estimated the maximum at 100 protesters or demonstrators. If a larger group arrived at the Pentagon, or if a group's actions became violent, DPS would have to request outside assistance.

plan provides that if assistance is necessary, DPS will request assistance from the Capital Police and then from other local law enforcement agencies as needed.

The *10-90 Gold Plan* emphasizes DPS training and equipment to ensure continued functions during an attack, particularly a chemical attack. In addition, this plan employs the strategy of deploying roving patrols and EST teams to different locations at and around the Pentagon on a random basis so that terrorists planning an attack will not be able to predict when and where they will be located. Currently, each DPS officer has a gas mask that can be used to escape from a chemically contaminated area. DPS is also obtaining gas mask packages (30 masks per package) to be maintained at each DPS guard station and in each squad car so people caught in a chemical attack will have masks available. Since DPS guard posts are logical targets for a chemical attack, DPS has strengthened DoD sustainability by pre-positioning masks there that will enable personnel manning those posts to protect themselves and to quickly distribute masks to others. In addition, DPS has acquired more sophisticated gas masks (with closed air supply) for the Secretary and Deputy Secretary of Defense and for the Chairman and Vice Chairman of the Joint Chiefs.

DPS personnel have also completed extensive training for dealing with terrorist attacks. In early 1996, an Army NBC training team conducted five one-day classes for the EST, watch commanders, and other supervisors. Additional DPS training in this area includes table-top and command-post exercises conducted as recently as October 1997. DPS is also developing an annual awareness training class for its officers based specifically on the *10-90 Gold Plan* and intends to implement this training in 1998.

The DPS plans do not specifically address contract guards or off-Pentagon sites. DPS believes that non-Pentagon locations are less likely targets because DoD presence at these locations is not as noticeable and these buildings do not have the same symbolic importance as the Pentagon.

2. Internal and External Customer Needs

Police departments typically have crime prevention and community relations programs to collect and share information on continuing or emerging criminal trends; to obtain "customer" input on goals and performance; and to enable the department to maximize its responsiveness to the law enforcement needs of its community. This usually includes maintaining liaison with and participating in community activities, which fosters cooperation and understanding, provides crime and safety alerts, and otherwise helps citizens avoid criminal victimization and accidental injury. One crime prevention approach involves conducting analyses and surveys to keep department managers informed on how citizens in the community (the customers) perceive both individual police officers and the department's overall conduct and performance. It also enables departments to target resources to specific community law enforcement needs.

The CALEA standards for crime prevention and community relations are designed for a typical municipal police department. However, as we have already noted, DPS is

E. Operations Support

not a typical police department. Because it serves the DoD community and operates within other local police department jurisdictions, DPS needs to be cognizant of criminal activities, trends, and patterns that impact this unique community and how they affect DPS' operations. Some of the CALEA standards in this area that may be applicable to DPS include:

- developing crime prevention programs by type of crime and geographic area based on crime analysis;
- evaluating crime prevention program effectiveness;
- developing community relations policies for the agency;
- publicizing agency objectives, problems, and successes; and
- conducting citizen attitude and opinion surveys at least every 2 years.

DPS conducts routine crime analyses, has a crime prevention program, and participates in various DoD and local activities. For example, DPS prepares displays and exhibits for law enforcement events held at the Pentagon and at other DoD facilities. It also uses these displays and exhibits in local community events such as school law enforcement appreciation and crime prevention days. DPS has a color guard that participates in local parades and events, and DPS officers hand out flyers on such things as the benefits of using automobile seat belts. While DPS has programs that could be tailored to satisfy applicable CALEA standards, it has not taken action to identify its customers, define its community, or ascertain their law enforcement needs. DPS also does not have an organizational strategic plan that identifies meeting community or customer needs as an organizational priority or major objective.

a. **Crime Analysis**. The DPS Criminal Investigations Section collects and reports monthly crime statistics. The Operations Branch commander, watch commanders, and other supervisors use these reports to advise officers about recent crimes and trends, and to reassign personnel based on reported trends. DPS management also attaches these reports to a daily newsletter, *Roll Call*, which is available to all DPS officers. However, DPS has not issued a general order or other policy requiring the reporting of crime trends and patterns.

b. **Crime Prevention Program**. The Crime Prevention Unit, Support Services Branch, which is also the DPS Inspections Unit, operates DPS' Crime Prevention Program. This program, however, is restricted in scope and limited to a few static displays that DPS has each year in the Pentagon and at various local schools and other community activities. The unit responds to various requests from both DoD and outside community groups, but does not proactively contact other individuals and organizations to share or obtain information, identify overall criminal activity and trends potentially affecting DPS and its customers, or to solicit input on how DPS could improve its Crime Prevention Program or the services it provides. DPS has not solicited input on its conduct and performance from its customers.

3. Internal Affairs Program

Our evaluation included assessing whether DPS has adequate mechanisms in place for addressing complaints against departmental policy, personnel, and procedures. We found that DPS has mechanisms in place to address these kinds of complaints. We also found that watch commanders and other supervisors know and understand how the complaint mechanisms are supposed to work. In most instances, we found that complaints are investigated in a thorough and timely manner. However, we also found that management decisions and personnel actions resulting from these investigations are sometimes delayed excessively, and that these delays caused some DPS personnel to perceive DPS procedures as unfair or as not working properly.

DPS has several general orders that govern complaint processing.⁶⁷ DPS has also issued memoranda elaborating on the policy prescribed in the general orders. The Internal Affairs Section has a manual that consolidates the relevant general orders, memoranda, statutes, and other material. This manual serves as a ready guide for managers to explain the role of the Internal Affairs Section and its operations. However, there are omissions in DPS policy that cause confusion. For example, while DPS uses a Shooting Board to address issues surrounding DPS officers discharging their firearms, DPS does not have a general order or other policy document prescribing standard operating policies and procedures for the Shooting Board. Further, the current policy does not address how Internal Affairs would handle allegations against a criminal investigator in the Criminal Investigations Section.

The Chief, Criminal Investigations Section, is also the Chief of the Internal Affairs Section, and criminal investigators from the Criminal Investigations Section conduct all internal affairs investigations, unless the matter involves a criminal investigator. Organizationally, the Chief of the Criminal Investigations Section reports to the Commander of the Operations Branch. When operating as the Chief of Internal Affairs, however, he reports to the Deputy Chief, DPS.

Delays in issuing internal affairs reports and in taking administrative actions based on the reports hamper the effectiveness of DPS discipline procedures. In addition, there is a potential problem when a criminal investigator is the subject of an internal affairs investigation. While a criminal investigator may not investigate such a case under current DPS policy, the Chief of the Criminal Investigations Section is still responsible for the internal affairs investigation. DPS does not have specific procedures for conducting internal affairs investigations under those circumstances. We note in this regard that the FBI and the Arlington County, Virginia, Police Department were both asked to review at

⁶⁷ General Order 1000.1, "Mission and Organization," January 31, 1996; General Order 1100.25, "Internal Affairs," April 28, 1992; General Order 1300.7, "Complaint Against Officer Procedures," October 28, 1992; General Order 1300.8, "Report of Inquiry," October 25, 1995; General Order 2100.1, "Use of Force," August 30, 1996; and General Order 2100.2, "Procedure Following Discharge of a Firearm," October 25, 1995.

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least one previous incident involving a DPS criminal investigator, and the Internal Affairs Section then adopted the results of their reviews.

Delays also left some DPS officers in an uncertain state while waiting for decisions based on internal affairs investigations. In at least three cases, officers lost opportunities for assignment to special teams or for overtime, or they were relieved from their regular duties for extended periods. These results affected the officers' morale and fostered a cynical attitude about DPS discipline. In other cases, delays gave the impression that management was not serious about discipline or caused unnecessary anxiety because the affected DPS officer did not know how the incident would be handled.

4. Inspections Program

The Inspections Section, Support Services Branch, is responsible for implementing a portion of the DPS Inspections Program in accordance with General Order 1100.23, "Staff Inspection," June 9, 1992; and General Order 1700.1, "Procedures for Cursory Inspection of Contract Guards," October 2, 1989. The Watch Commander, Operations Section, is responsible for implementing the program's line inspection requirements in accordance with General Order 1100.22, "Line Inspection," November 10, 1992. The governing general orders require, among other things, regular and thorough inspections of equipment and personnel, including knowledge of and compliance with orders and policy. The general orders also require that these inspections document findings and recommendations so senior managers can be informed and take the actions needed. In addition, the general orders require the Inspections Section to inspect at least some contract guards each day.

At the time of our fieldwork, a sergeant headed the DPS Inspection Section, and three officers were assigned on a temporary basis as the staff.⁶⁸ The sergeant had several other duties, including heading or participating in DPS' Critical Incident Negotiation Team, Color Guard, and Crime Prevention Program. This staffing, even though complemented with patrol officers who perform inspections at contractor locations, is not adequate for accomplishing the overall inspections mission.

Due to inadequate record keeping, we could not identify the overall inspections conducted in previous years or their outcomes. In addition, the general orders are not clear as to the retention period for inspection records. More importantly, an inadequate inspections program may well have deprived DPS of a valuable management tool. Had

⁶⁸ A captain headed the Inspections Section until the individual retired in March 1996, at which time a lieutenant was assigned the responsibility. The sergeant was given the responsibility in January 1997, after the lieutenant became ill and unable to continue heading the unit. In January 1998, a captain was again given the overall responsibility and two lieutenants were assigned, one to head the inspections unit and the other to head a new Contract Guard Compliance unit, which was formed based on separating duties and responsibilities in the previous Inspections Section. This lack of continuity may be one reason why the inspections program has not been aggressive or has not met the general order requirements.

DPS' inspections program been effective, and had DPS management acted on the inspection results, DPS might well have identified and remedied the weapons, evidence, and other operating problems previously described.

a. **Line Inspections**. The Watch Commander, Operational Services Branch, is responsible for accomplishing line inspections (the inspection of facilities, equipment, and personnel for compliance with standards of appearance, fitness and performance). We reviewed line inspections in the Operations Section, which has the largest number of DPS employees. This section appears to have conducted daily line inspections in FY 1997. However, because General Order 1100.23 is not clear on the retention period for records, and because the Inspections Section either did not complete or did not retain records from these inspections, we could not confirm that line inspections were conducted. We also could not confirm whether the Operations Section prepared monthly reports on line inspections for the Chief and Deputy Chief as General Order 1100.22 requires.

b. **Staff Inspections**. The Inspections Section is responsible for conducting staff inspections, which include general, special and spot inspections.⁶⁹ These inspections are supposed to ensure, among other things, that line inspections are conducted as required. The Inspections Section, however, did not conduct a staff inspection in FY 1997 and has not developed a schedule for FY 1998 staff inspections.

c. **Contract Guard Inspections**. The Inspections Section and the Operations Branch share responsibilities for inspecting contract security guard operations at 21 delegated buildings in the National Capital Region. The Inspections Section and mobile patrol officers from the Operations Branch conduct separate inspections at these sites. In aggregate, they inspect each site at least monthly and have a twice-a-month goal. Since July 1997, these inspections have been based on a new checklist that requires checking each guard's credentials to identify any that might be expired; confirming that armed guards are properly armed and authorized to have the weapons they carry; and checking time sheets to determine if the proper number of guards are at the appropriate locations and whether they worked appropriate hours. The inspectors note any discrepancy on a verification form, SD Form 552, "Contract Guard Performance Report," which can be the basis for the contract administrator to reduce payments to the contractor.

Patrol officers recently began using a photocopy SD Form 552 to record their inspection results. These forms are forwarded to the Inspections Section and, after quality review, are combined with Inspections Section verification forms forwarded to the unit supervisor and, ultimately, to the contract administrator. The contract administrator may reduce payments to the contractor if the discrepancies are serious. We did not identify specific problems with these inspections, except for internal record keeping

⁶⁹ General inspections are inspections of a branch or section and are conducted according to a pre-established schedule. Special inspections are limited in scope to the examination of a condition or operational function in a DPS component. Spot inspections are concerned with an examination of a specific phase of the activities of a component and are a follow-up to a general, special, or previous spot inspection.

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weaknesses. Currently, the individual inspection team members keep the completed inspection checklist for varying, unspecified periods of time. All the paperwork from an inspection, however, should be centrally filed in the Inspections Section and kept for a uniform period of time. If this were done, the Inspections Section would be in a position to resolve disputes concerning discrepancy findings and would be able to track its inspection times and locations.

Management Comments and Our Evaluation

The Director, Administration and Management, concurred with our findings and recommendations. Specific comments are addressed below in connection with the individual recommendations.

Recommendations

E1. The Chief, DPS, take action to:

- identify DPS customer and community needs through surveys and community relations programs;
- adopt an agency-wide goal of satisfying customer and community needs; and
- amend DPS general orders to incorporate and emphasize this new goal.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. The Director advised that: DPS has adopted a goal of customer satisfaction and attention to community needs; surveys are ongoing and follow-up calls are taking place; and DPS is involved in community relations programs, where appropriate. The Director also advised that, as each DPS GO is revised, the GO is reviewed to see where customer satisfaction and attention to community needs can be emphasized.

The comments are responsive to our recommendation.

E2. The Chief, DPS, take action to formalize crime statistics development and reporting, based on collecting and analyzing DPS crime statistics and relevant statistics from other law enforcement organizations in the National Capital Region.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. The Director advised that statistics are now developed, analyzed, and reported monthly.

The comments are responsive to our recommendation.

E3. The Chief, DPS, take action to:

- establish formal guidelines for the DPS Shooting Board, including whether the Shooting Board has decision making or advisory authority, when it must be convened, criteria for its membership, and the coordination required with individual DPS operating elements, such as Internal Affairs.

- modify current general orders to include specific time targets for completing internal affairs and related administrative actions. The modifications should allow time extensions from specified targets when justified, but should require documented reasons for the delay.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. The Director advised that a GO is being developed to establish formal guidelines for the DPS Shooting Board and the GO will be completed no later than September 30, 1999. The Director also advised that GO 1100.25 includes specific time targets for completing internal affairs and related administrative actions.

The comments are responsive to our recommendation. In responding to this final report, we ask the Director to provide a copy of the current GO 1100.25 and the new GO establishing guidelines for the DPS Shooting Board.

E4. The Chief, DPS, take action to assign additional personnel to the Inspections Section and:

- ensure the additional personnel are trained on implementing inspections policy and adhering to policy requirements during inspections;
- ensure that senior managers give the inspections program higher priority, closer supervision, and act on inspection findings;
- consider relocating the Inspections Section to the Pentagon where the staff would be closer to most DPS personnel and, through better staff and management interaction, could better identify inspection needs; and
- amend General Order 1100.22, "Line Inspection," November 10, 1992, establishing clear standards and procedures for file maintenance and retention, and management reporting.

Management Comments and Our Evaluation

The Director, Administration and Management, agreed. According to the Director:

- adequate additional personnel have been added to the inspections cadre and properly trained in their duties;

Part II – Results of Evaluation and Recommendations

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- senior managers now hold periodic meetings to assure inspections are receiving proper priority, and annual inspections have been scheduled;
- DPS considered relocating the Inspections Section to the Pentagon, but determined the new emphasis on internal inspections made the move unnecessary;
- the personnel who monitor contracts, however, have been moved to the Operations Division; and
- before April 30, 1999, GO 1100.22 will be amended to establish clearer standards and procedures for inspection file maintenance and retention, and management reporting.

The comments are responsive to our recommendation. In responding to this final report, we ask the Director to provide a copy of amended GO 1100.22.

Evaluation Team Members

Deputy Assistant Inspector General for Criminal Investigative Policy and Oversight,
Office of the Assistant Inspector General for Investigations, Office of the Inspector
General, Department of Defense.

Jack L. Montgomery

Lt. Col. Verne Avery

Karen E. Cropper

Thomas A. Gribben

David M. Oberholzer

Joseph H. Palmer, Jr.

John J. Perryman, III

Nakita R. Pounds

Kathleen L. Roach

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Inspector General, Department of Defense
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Arlington, VA 22202-2884

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